

8-7-2018

# The False Promise of Individual Choice: Residential Segregation and Policy Discourse in Baltimore Public Housing, 1940-1970

Sara Patenaude

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THE FALSE PROMISE OF INDIVIDUAL CHOICE: RESIDENTIAL SEGREGATION AND  
POLICY DISCOURSE IN BALTIMORE PUBLIC HOUSING, 1940-1970

by

SARA PATENAUE

Under the Direction of Alex Sayf Cummings, PhD

ABSTRACT

After the 1954 Supreme Court decision in *Brown v. Board of Education of Topeka, Kansas*, applicants to Baltimore's public housing projects were legally allowed to apply for residence in whichever projects they preferred, regardless of race. When it came to implementing this desegregation policy, however, the reality was not so simple. By ignoring the legacy of segregation and ongoing systemic racism and focusing on removing official barriers to "choice," housing officials and local leadership did little to actually alleviate segregation among public housing residents. In the city's three main arenas of conflict—planning, policy, and politics—leaders embraced the rhetoric of "freedom of choice," which allowed them to eschew more substantive steps toward desegregation by blaming continued segregation on individual agency.

This dissertation examines the ways in which city planning, public policy, and local politics intersected in the fight over segregation in Baltimore's public housing during the twentieth century. The critical period from the early 1940s to the early 1970s established patterns of residential segregation that the city follows to this day. This dissertation relies upon close readings of sources to get at the underlying implications and obfuscations by Baltimore policy makers and public officials, and to highlight the places where the rhetoric of "freedom of choice" was embraced by the public. This close-reading approach questions the underlying assumptions and unspoken motivations policymakers had related to "choice"—What does choice mean? When is choice meaningful, and when is it not? Ultimately, the espousal of "choice" in public housing was more a way for city officials to avoid responsibility for meaningful desegregation than honest attempt to support individual agency and decision-making . These changing uses of "individual choice" in Baltimore created a path that other cities would follow in the more well-known neoliberal policies after 1970. Rather than chronicling the important ways that tenants worked within and challenged the limitations of the public housing systems, this dissertation examines the ways that those systems were constructed and construed by city planners and policy makers.

INDEX WORDS: Baltimore, City planning, Public housing, Desegregation, Residential segregation, Housing policy

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SARA PATENAUE

A Dissertation Submitted in Partial Fulfillment of the Requirements for the Degree of

Doctor of Philosophy

in the College of Arts and Sciences

Georgia State University

2018

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August 2018

## **DEDICATION**

To Virginia and Ben, without whom this would not have been possible,  
and for Joe and Matilda, without whom this would not have been worth it.

## ACKNOWLEDGEMENTS

Many thanks are in order for the years of support so many have provided as I made this journey.

I am deeply indebted to my committee members—Alex Cummings, Kate Wilson, and Chuck Steffen—who stuck with me through numerous drafts, even the early, ugly ones. Their guidance has helped shape this project in ways they do not even know.

This dissertation was made possible through generous institutional support from the GSU Department of History, the Association of Historians at Georgia State University, and the Provost Dissertation Fellowship from the GSU College of Arts and Sciences. The archivists and staff at the University of Baltimore Langsdale Library and the Baltimore City Archives repeatedly went above and beyond; Aiden Faust deserves special praise for enduring my late-night emails.

The scholarly community at Georgia State University was my intellectual home for the last six years. Joe Perry was instrumental in welcoming me in. Larry Youngs and Christine Skwiot, though now gone from GSU, are still among those I consider key to my growth as a historian. Lisa Armistead and Katrina Helz cheered me on to the end, and Joseph Hacker and Dan Immergluck have helped shape my future goals. I miss Cliff Kuhn in ways too deep to enumerate here. My friends and fellow graduate students, especially Michelle Lacoss, Lauren Thompson, Megan Piorko, Allyson Tadjer, and Andy Reisinger, offered support in countless ways, big and small.

My work has also been shaped by those at the University of Maryland, Baltimore County—Drew Alfren, Denise Meringolo, Michelle Scott Hillman, Howard Smead, and Kriste Lindenmeyer—and Northern Kentucky University, especially Jonathan Reynolds and Becky



Bailey. The scholars I met through the Society for American City and Regional Planning History, particularly Walter Greason and Katie Marages Schank, are the reason this dissertation became what it is.

To my friends who often did not understand why I would do this crazy thing, but supported me through it anyway—with a special nod to Rachel Kassman, Melina Avery, Sue May, Brittney and Rebecca Thornburley, and my community at the Atlanta Friends Meeting—thank you.

William Whitson, Tim Young, Jonathan Gelber, and Geoff Koski have helped me find my next steps and feel confident in pursuing them.

I would not have made it through this process without the love and support of Allison Seyler and Todd Barr.

My mother, brother, and grandparents have been patient with me and my refusal to declare myself done with school. Grandpa—I'm finally graduating for good!

My son Joe will not remember these days, but I will never forget them.

And to Dylan—You saw me when I could not see myself. Thank you.

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## 1 INTRODUCTION

On the morning of August 20, 1995 a crowd gathered in the streets of downtown Baltimore. Thirty thousand people formed an eight-block-long parade and party, complete with band performances and vendors selling commemorative t-shirts and souvenirs. At noon, a hush fell over the crowd, after which the countdown began. As the chant hit zero, a series of explosions could be heard, and felt. In just twenty seconds, the six high-rise towers of the Lafayette Courts housing projects crumbled into dust and rubble.<sup>1</sup>

This moment, decades in the making, bookended the rise and fall of public housing in Baltimore. Planners initially envisioned Lafayette Courts as one of Le Corbusier's "towers in a park," meant to replace overcrowded slums with clean, comfortable, affordable provisions for the city's working poor. Built in the mid-1950s as Baltimore's first high-rise public housing, Lafayette was also the first of Baltimore's public housing to open as a desegregated project.<sup>2</sup> The first residents in the project "were begging to get into this place," former resident and custodian Joe Lamma remembered.<sup>3</sup> By 1995, however, the towers were plagued by constant maintenance issues, crime, and categorical disinvestment by the city and the citizenry of Baltimore.

Still, reactions to the demolition were mixed. Former residents of the housing project returned from as far away as Oakland, California to bear witness to the implosion. One resident, Carolyn Lamma, said, "I'm just glad I was here in person. That was history." While the husband of another former resident insisted, "It's a good thing. A lot of people who lived over there are

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<sup>1</sup> JoAnna Daemmrich, "Lafayette Courts Ends in 20 Seconds of Explosions, Cheers, Tears," *Baltimore Sun*, August 20, 1995; Charles Cohen, "Destroying a Housing Project, to Save it," *New York Times*, August 21, 1995.

<sup>2</sup> Lafayette opened in 1956 as a desegregated project, a significant change by city officials following the 1954 Supreme Court decision *Brown v. Board* declared "separate but equal" to be inherently unconstitutional.

<sup>3</sup> Cohen, "Destroying a Housing Project, to Save it".

good people who deserve a better chance,” a woman could be heard wailing as the towers fell, “They killed my building!” After plunging the ceremonial detonator, Mayor Kurt L. Schmoke told one reporter, “We all had a tear in one eye and a big grin on our faces at the same time.” Former resident Penny Dunlop summed it up similarly, saying, “I don’t know if I should take a picture or cry.”<sup>4</sup>

Lafayette Courts was just the first of Baltimore’s public housing high-rises to come down. Less than a year later, 15,000 onlookers gathered for another “festive atmosphere” to see the five towers of Lexington Terrace fall.<sup>5</sup> Murphy Homes, with its four 14-story high rise towers and its grim moniker “Murder Homes,” followed in 1999.<sup>6</sup> Baltimore’s demolitions in the late twentieth century were part of a wider trend as public housing authorities across the country, supported by federal HOPE VI funds, divested from their large-scale public housing developments. As Baltimore Housing Authority spokesman Zack Germroth explained, “It made no sense to repair them from a sociological, physical or maintenance standpoint.”<sup>7</sup> Some units were replaced with new public housing in mixed-income projects, the rest with Section 8 Housing Choice vouchers. The last of Baltimore’s low-income high-rises came down with the 2001 demolition of Flag House Courts.<sup>8</sup>

The rise and fall of public housing is a popular topic for urban historians. The story has been told for cities from Chicago to Los Angeles, New York to San Francisco. While the story in Baltimore may not, at first glance, seem unique, the city has become known for its public

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<sup>4</sup> Daemmrigh, “Lafayette Courts Ends in 20 Seconds of Explosions, Cheers, Tears,” Cohen, “Destroying a Housing Project, to Save it.”

<sup>5</sup> “Baltimore to Demolish More Public Housing Units,” *The Washington Post*, September 30, 1995.

<sup>6</sup> Dylan Waugh and Megan Miller, “Murphy Homes Gone, Not Forgotten,” *Capital News Service Maryland*, December 19, 2008.

<sup>7</sup> Sharon Cohen, “Demolition of Dangerous, Decaying Public Housing Begins,” *LA Times*, May 26, 1996.

<sup>8</sup> Jewish Museum of Maryland, “Flag House Courts and Albemarle Square,” *Explore Baltimore Heritage*, accessed June 3, 2018, <https://explore.baltimoreheritage.org/items/show/374>.

housing and related issues of poverty, drugs, corruption, and crime since the critically-acclaimed HBO series, *The Wire*, debuted in 2002. More recently, the tragic death of Freddie Gray and the resulting uprising in the city's streets have brought Baltimore's housing problems back to the public mainstream. Though its official motto is "The Greatest City in America," Baltimore, Maryland is more likely to be colloquially referred to by the pejorative, "Bodystore, Murderland."<sup>9</sup>

Yet the projects have been home to thousands of Baltimore residents since 1940, when Poe Homes (named for one of the city's most famous residents, Edgar Allen Poe) opened in West Baltimore. Poe Homes, and the twelve housing projects that followed, were divided into "Negro" and "White" projects. After 1954, when the Housing Authority of Baltimore City (HABC) officially desegregated the projects in response to the U.S. Supreme Court decision in *Brown v. Board of Education of Topeka, Kansas*, applicants to public housing were legally allowed to apply for residence in whichever projects they preferred, regardless of race.

When it came to implementing this desegregation policy, however, the reality was not so simple. By ignoring the legacy of segregation and ongoing systemic racism, the liberal focus on removing official barriers to "choice" did little to actually alleviate segregation among public housing residents. Even as federal officials mandated a new policy aimed at ending continued segregation, allowing local control provided Baltimore officials and residents ample opportunity to maintain several all-white projects—primarily in the interest of maintaining any white residents on their public housing rolls. These three arenas of conflict—planning, policy, and politics—coalesced around the rhetoric of "freedom of choice," a key phrase and concept

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<sup>9</sup> For some of the many variations, see Frances Stead Sellers, "Life and death in Bulletmore, Murderland," *The Guardian*, January 17, 2008; Richard Byrne, "Bodystore, Murdaland," *The American Prospect*, October 22, 2006; Dewayne Wickham, "In 'Bodystore, Murderland,' Snitching Could Save Lives" *USA Today*, June 8, 2015.

running through the history of Baltimore's public housing in all its iterations. From the initial emphasis on individual liberty as a solution to segregation during the post-World War II period, to the neoliberal shift to Section 8 "Housing Choice" vouchers in the 1970s, this phrase "freedom of choice" returns again and again in the context of local attempts to subvert changing federal policy and in Baltimore official's attempts to answer the fundamental questions of where public housing should be built and who should live there.

This dissertation examines the ways that city planning, public policy, and local politics intersected in decisions about Baltimore public housing in the twentieth century. The critical period from the early 1940s to the early 1970s established the patterns of residential segregation that the City of Baltimore follows to this day. The choice to end before the development of the Section 8 voucher program is a deliberate one; while the neoliberal shift to supporting "choice" through voucher programs now dominates low-income housing policy across the country, the lack of national regulations protecting voucher recipients means that landlords can refuse to participate, resulting in voucher use trends that mirror the very same segregation patterns discussed here. By focusing on the periods during which public housing projects were physically constructed in Baltimore's communities, this project unpacks liberal assumptions of what "freedom of choice" meant in theory and how it operated in public policy.

This dissertation relies upon close readings of sources to get at the underlying implications and obfuscations by policy makers and public officials, and to highlight the places where the rhetoric of "freedom of choice" was embraced by the public. It draws heavily from official memos and minutes from the Baltimore Urban Renewal and Housing Authority, the American Civil Liberties Union of Maryland, and the Citizens Planning and Housing Agency. Other official records came from the Baltimore City Archives. Newspaper accounts are drawn



from two Baltimore papers of record: the *Baltimore Sun*, a mainstream daily press, and the *Baltimore Afro-American*, one of the most influential black weekly newspapers in the country.

This close-reading approach questions the underlying assumptions and unspoken motivations policymakers had related to “choice.” What does choice mean? When is choice meaningful, and when is it not? Moreover, was the espousal of “choice” in public housing a way for city officials to avoid responsibility for meaningful desegregation, or an honest attempt to support individual agency and decision-making? Even if the latter is the case, how did the system of structural racism in the city prevent public housing residents from having the *ability* to choose, despite having the *right* to do so? And, in the case of Baltimore in particular, what do officials do when there are not enough white people left in public housing to meaningfully integrate projects?

In this dissertation, I make four overarching arguments about Baltimore’s public housing program. First, the rhetoric of “freedom of choice” allowed Baltimore housing officials to eschew responsibility for affirmatively desegregating public housing and correcting the resulting segregation patterns in the city. Second, deliberate choices made by local and federal agencies created a situation that exacerbated white abandonment of public housing throughout the city and resulted in severely limited options for low-income black residents. Third, when the United States Department of Housing and Urban Development (HUD) attempted to advance policy solutions to continued public housing segregation, local officials found ways to subvert these policies and maintain the status quo of de facto segregation in Baltimore’s housing projects. Finally, those local civil servants who did embrace the idea of deconcentrating public housing in the mid- to late-1960s were stymied by elected officials who refused to advance fair housing policies.

This focus on the changing policy through the rhetoric of “freedom of choice” is an intervention into the historical literature of public housing because it shifts from the current “bottom-up,” tenant-focused view of resident agency to questioning the ways that decision-makers justified their top-down policies as promoting that choice.<sup>10</sup> Rather than chronicling the important ways that tenants worked within and challenged the limitations of the public housing systems, this dissertation examines the ways that those systems were constructed and construed by city planners and policy makers. Baltimore is unique in that it exist in a borderland—not quite a southern city like Richmond or Atlanta, nor an industrial northern city like Philadelphia or Pittsburgh. Its border positioning has left it out of much of the historiography because it does not quite fit in either paradigm. What is instructive about Baltimore in this case, though, are the ways that the language of choice as a way to avoid desegregation were first being hammered out. While most cities which resisted housing desegregation after *Brown v. Board* in 1954, and the Fair Housing Act in 1968 did so in direct refusal, Baltimore officials and policymakers were experimenting with new ways to comply with the mandated legalities of desegregation while avoiding integration and the fraught political realities that would entail. Though most public housing authorities would eventually turn to the language of choice, and the emphasis on

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<sup>10</sup> Among such resident-centered work is Roberta Gold, *When Tenants Claimed the City: The Struggle for Citizenship in New York Housing* (Champaign, IL: University of Illinois Press, 2014); Gerald D. Suttles, *Social Order of the Slum* (Chicago: University of Chicago Press, 1968); Lee Rainwater, *Behind Ghetto Walls* (Chicago: Aldine, 1970); Lawrence Vale, *Reclaiming Public Housing: A Half Century of Struggle in Three Public Neighborhoods* (Cambridge, Mass.: Harvard University Press, 2002); Sudhir Alladi Venkatesh, *American Project: The Rise and Fall of a Modern Ghetto* (Cambridge, Mass.: Harvard University Press, 2002); Talja Blokland, “You Got to Remember you Live in Public Housing” *Housing, Theory, and Society* 25 (2008): 31-36; and Amy L. Howard, *More than Shelter: Activism and Community in San Francisco Public Housing* (Minneapolis: University of Minnesota Press, 2014). Books focusing specifically on women in public housing include Roberta M. Feldman and Susan Stall, *The Dignity of Resistance: Women Residents' Activism in Chicago Public Housing* (New York: Cambridge University Press, 2004) and Rhonda Y. Williams, *The Politics of Public Housing: Black Women's Struggles Against Urban Inequality* (Oxford: Oxford University Press, 2004).

Also of note is the “American Public Housing at 75: Policy, Planning, and the Public Good” Special Issue of the *Journal of the American Planning Association* 78, no. 4 (2012) focusing on public housing, and featuring articles by such noted historians as Joseph Heathcott, Lawrence Vale, Nicholas Dagen Bloom, Amy Howard, Edward Goetz, and Leigh Graham.

individual decision making would be codified nation-wide with the turn to “housing choice” vouchers, it is in this time and this place in Baltimore that this emphasis on choice began.

Throughout this dissertation, my examination of Baltimore public housing policy hinges on the axis of choice and agency versus structural racism and systems of constraint. This approach advances historical conversations on the interplay of urban poverty and political systems, drawing from foundational scholars such as Douglas Massey, Nancy Denton, Michael B. Katz, and Lawrence Mead.<sup>11</sup> It also builds on the work of historians who look to structural explanations of urban poverty and inequality, specifically targeting the American economic system and racial discrimination as inextricably intertwined.<sup>12</sup> Much like scholars of the history of race and politics, like Kevin Kruse and Matthew Lassiter, I find the roots of modern urban society in the racial politics of cities, especially those following the Civil Rights Act of 1964 and the resultant backlash of suburbanization.<sup>13</sup> Finally, as in the recent works by Nathan D.B.

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<sup>11</sup> Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge, Mass: Harvard University Press, 1993); Michael B. Katz, *The Undeserving Poor: From the War on Poverty to the War on Welfare* (New York: Pantheon, 1989); Lawrence Mead, *The New Politics of Poverty* (New York: Basic Books, 1992).

See also Edward C. Banfield, *The Unheavenly City: The Nature and Future of Our Urban Crisis* (Boston: Little, Brown, 1968); Lee Rainwater and William L. Yancey, eds., *The Moynihan Report and the Politics of Controversy* (Cambridge, Mass.: MIT Press, 1967); George Gilder, *Wealth and Poverty* (New York: Basic Books, 1981); Charles Murray, *Losing Ground: American Social Policy, 1950-1980* (New York: Basic Books, 1984); Myron Magnet, *The Nightmare and the Dream: The Sixties Legacy to the Underclass* (New York: William Morrow, 1993); Ken Auletta, *The Underclass* (New York: Random House, 1982); Christopher Jencks, *Rethinking Social Policy* (Cambridge, Mass: Harvard University Press, 1993); and James T. Patterson, *America's Struggle Against Poverty, 1900-1994* (Cambridge, Mass.: Harvard University Press, 1995).

<sup>12</sup> The two strands are characterized by William Julius Wilson, *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy* (Chicago: University of Chicago Press, 1987) on the one side and Gary Orfield, “Ghettoization and Its Alternatives” in *The New Urban Reality*, ed. Paul E. Peterson (Washington, D.C.: The Brookings Institution, 1985), 161-95, and Massey and Denton, *American Apartheid* on the other.

<sup>13</sup> Kevin Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton, N.J.: Princeton University Press, 2007); Kevin Kruse and Thomas Segue, eds., *The New Suburban History* (Chicago: University of Chicago Press, 2006); and Matthew D. Lassiter (*The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, N.J.: Princeton University Press, 2007). Important earlier works with a political-based focus include Thomas Byrne Edsall and Mary D. Edsall, *Chain Reaction: The Impact of Race, Rights, and Taxes on American Politics* (New York: Norton, 1991); Jim Sleeper, *The Closest of Strangers: Liberalism and the Politics of Race in New York City* (New York: Norton, 1990); and Jonathan Rieder, *Canarsie: The Jews and Italians of Brooklyn Against Liberalism* (Cambridge, Mass.: Harvard University Press, 1985).

Connolly and Richard Rothstein investigating the role of policy in creating the modern United States' housing system, I locate the origins of Baltimore's ongoing struggles with population decline, race relations, and citizen distrust of lawmakers in the housing decisions made throughout the mid-twentieth century.<sup>14</sup>

I frame these topics through examinations of urban inequality and public housing in twentieth-century Baltimore. Much recent scholarship on public housing history identifies a structural pattern of policy decisions that conflate poverty with race and urban renewal with slum clearance.<sup>15</sup> Rather than focusing on the narrative of public housing's decline, my work looks to the—at times unintentional—patterns put into place beginning with the city's very first discussions of where to locate public housing projects, through later struggles to change these patterns after they were engrained in the fabric of the city.<sup>16</sup> As the location of one's home has reverberating effects on education, employment, political representation, and health outcomes,

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<sup>14</sup> Nathan D.B. Connolly, *A World More Concrete: Real Estate and the Remaking of Jim Crow South Florida* (Chicago: University of Chicago Press, 2014); Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright Publishing Group, 2017).

<sup>15</sup> Much recent work in public housing studies have focused attention public housing decline and the resultant demolition through the HOPE VI program of the 1990s. At the forefront of this new movement are historians Lawrence Vale, *Purging the Poorest: Public Housing and the Design Politics of Twice-Cleared Communities* (Chicago: The University of Chicago Press, 2013) and Edward G. Goetz, *New Deal Ruins: Race, Economic Justice, and Public Housing Policy* (Ithaca, N.Y.: Cornell University Press, 2013). Additional work from the policy history field includes Alexander Polikoff, *Waiting for Gautreaux: A Story of Segregation, Housing, and the Black Ghetto* (Chicago: Northwestern University Press, 2006); Mary Pattillo, *Back on the Block: The Politics of Race and Class in the City* (Chicago: University of Chicago Press 2007); and Edward G. Goetz, "Better Neighborhoods, Better Outcomes? Explaining Relocation Outcomes in HOPE VI," *Cityspace* 12, no. 1 (2010), 5-31; James Hanlon, "Beyond HOPE VI: Demolition/Disposition and the uncertain future of public housing in the U.S.," *Journal of Housing and the Built Environment* 27 (2012), 373-388.

<sup>16</sup> Historians of public housing who have sought to understand the ultimate successes and failures of public housing as a result of initial design include Nicholas Dagen Bloom, *Public Housing that Worked: New York in the Twentieth Century* (Philadelphia: University of Pennsylvania Press, 2008) and D. Bradford Hunt, *Blueprint for Disaster: The Unraveling of Chicago Public Housing* (Chicago: University of Chicago Press, 2009). Others taking a policy-centered view are John Bauman, *Public Housing, Race, and Renewal: Urban Planning in Philadelphia, 1920-1974* (Philadelphia: Temple University Press, 1987); Arnold Hirsch, *Making the Second Ghetto: Race and Housing in Chicago, 1940-1960* (Chicago: University of Chicago Press, 1996); Lawrence Vale, *From the Puritans to the Projects* (Cambridge, Mass.: Harvard University Press, 1996), and Charlotte Brooks, *Alien Neighbors, Foreign Friends: Asian Americans, Housing and the Transformation of Urban California* (Chicago: University of Chicago Press, 2009).

these residential segregation patterns affected generations of Baltimoreans well beyond the walls of the public housing projects.<sup>17</sup> The institutionalization of urban housing discrimination is the result of seemingly non-racial economic decisions by public institutions and private companies, reinforced through a lack of government intervention.<sup>18</sup> While “disparate impact” studies often elide blame, throughout this dissertation, I point to the direct lines between supposedly “racially neutral” policies of choice and resultant racial discrimination. In Baltimore, as elsewhere across the country, residential segregation was enforced not by government decree, but by individuals abandoning “block-busted” neighborhoods for the suburbs, pressuring elected officials to stop “encroachment,” and loudly proclaiming racially coded complaints about declining property values.<sup>19</sup>

Although this dissertation does not chronicle the widespread change from public housing projects to voucher programs, it does set the stage for the systems and policies that culminated in demolition and subsidized housing vouchers through programs including Section 8, under HUD’s HOPE VI program. The neoliberal shift toward a belief that free markets were better

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<sup>17</sup> The literature on these topics is voluminous, but of particular note for their importance to framing this dissertation are two works examining school desegregation: Howell S. Baum, *Brown in Baltimore: School Desegregation and the Limits of Liberalism* (Ithaca: Cornell University Press, 2010) and Ansley Erickson, *Making the Unequal Metropolis: School Desegregation and its Limits* (Chicago: University of Chicago Press, 2016).

<sup>18</sup> In *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton, NJ: Princeton University Press, 2005), Thomas Segrue chronicles how decisions made regarding industrial plant location, deindustrialization, and automation, when combined with a historic discrimination in housing and employment, made it possible for businesses to actively discriminate against their black labor force without specifically targeting laborers by race. Beryl Satter’s work, *Family Properties: Race, Real Estate, and the Exploitation of Black Urban America* (New York: Metropolitan Books, 2009) examines how the refusal by banks to insure mortgages in black neighborhoods resulted in racially-biased credit policies that resulted in financial discrimination and perpetuated residential segregation without any need for laws to enforce it.

<sup>19</sup> Historical works on residential segregation are numerous, but of particular note are Massey and Denton, *American Apartheid*; Ronald H. Bayor, *Race and the Shaping of Twentieth-Century America* (Chapel Hill: University of North Carolina Press, 1996); Preston H. Smith, *Racial Democracy and the Black Metropolis: Housing Policy in Postwar Chicago* (Minneapolis: University of Minnesota Press, 2012); Karl E. Taeuber and Alma F. Taeuber, *Negroes in Cities: Residential Segregation and Neighborhood Change* (Chicago: Aldine Publishing Company, 1965); Camille Zubrinsky Charles, “The Dynamics of Racial Residential Segregation,” *Annual Review of Sociology* 29 (2003), 167-207; and a number of recent books on white flight including Kruse, *White Flight*; Lassiter, *The Silent Majority*; and Eric Avila, *Popular Culture in the Age of White Flight: Fear and Fantasy in Suburban Los Angeles* (Berkeley: University of California Press, 2004).

equipped to handle social needs (despite known market failures in affordable housing) has led to what urban planners Neil Brenner and Nik Theodore termed “geographically uneven, socially regressive, and politically volatile trajectories of institutional/spatial change.”<sup>20</sup> As with the uncritical acceptance of “freedom of choice” as a meaningful framework for the liberalist policies of the 1950s, so-called “housing choice” vouchers rose to prominence in the 1980s and persist today as the primary form of affordable housing subsidies for low-income families.<sup>21</sup> As Baltimore was forced to confront the arbitrary jurisdictional divisions between city and county during the 1990s and early 2000s with the Federal District Court case of *Thompson v. HUD*, the focus on neoliberalism has led historians to reevaluate the utility of an urban/suburban divide in the study of American metropolises.<sup>22</sup> Those public housing projects that do remain in the city are now built in the style of the city’s quintessential rowhouses. As Mayor Schموke proclaimed when the towers of Lexington Terrace came down in 1996: “What we have done is torn down what essentially have become warehouses of poverty, and what we’re creating is town houses of choice.”<sup>23</sup>

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<sup>20</sup> Neil Brenner and Nik Theodore, “Cities and the Geographies of ‘Actually Existing Neoliberalism,’” *Antipode* 34, no.3 (2002), 351.

<sup>21</sup> Recent studies of neoliberalism include John F. Bauman, Roger Biles, and Kristin Szylvian, editors, *From Tenements to Taylor Homes: In Search of an Urban Housing Policy in Twentieth-Century America* (University Park: Pennsylvania State University Press, 2000); Douglas W. Rae, *City: Urbanism and Its End* (New Haven: Yale University Press, 2003); Setha M. Low, editor, *Theorizing the New City: The New Urban Anthropology Reader* (New Brunswick, NJ: Rutgers University Press, 1999); Gerald E. Frug, *City Making: Building Communities without Building Walls* (Princeton, NJ: Princeton University Press, 1999); Neil Brenner and Nik Theodore, editors, *Spaces of Neoliberalism: Urban Restructuring in North America and Western Europe* (Oxford: Blackwell, 2002); Christopher Mele, “Casinos, Prisons, Incinerators, and Other Fragments of Neoliberal Urban Development,” *Social Science History* 35, no. 3 (2011), 423-452; and the scathing critique by David Harvey in *A Brief History of Neoliberalism* (New York: Oxford University Press, 2005).

<sup>22</sup> Historians taking a regional view of city planning and policy include Becky M. Nicolaides, *My Blue Heaven: Life and Politics in the Working Class Suburbs of Los Angeles, 1920-1965* (Chicago: University of Chicago Press, 2002); Josh Sides, *L.A. City Limits: African Americans in Los Angeles from the Great Depression to the Present* (Berkeley: University of California Press, 2004); Robert O. Self, *American Babylon: Race and the Struggle for Postwar Oakland* (Princeton, N.J.: Princeton University Press, 2003); and Andrew Wiese, *Places of their Own: African American Suburbanization in the Twentieth Century* (Chicago: University of Chicago Press, 2004). Further examples can be found in *The New Suburban History*, edited by Kevin M. Kruse and Thomas J. Sugrue (Chicago: University of Chicago Press, 2006).

<sup>23</sup> “Baltimore Housing Complex Demolished,” *The Washington Post*, July 28, 1996

In chapter one, I discuss the development of subsidized housing for war workers during World War II. Though first planned as low-income housing, changes to federal funding and wartime rationing meant that the only housing construction authorized in any city was to house war industry workers. In Baltimore, despite desperate housing shortages for black migrants coming to work in shipyards and other defense industries, city lawmakers insisted that no such shortage existed. When officials did unveil plans for a black war worker housing project near a white area of town, the outcry was strong and immediate. Protests against the Herring Run site were successful in preventing construction of the proposed public housing project there; instead, the units were built in Cherry Hill, close to the municipal incinerator. I argue that the effects of this unsuccessful attempt to locate public housing outside of all-black neighborhoods reverberated throughout the rest of the city's public housing decisions in the twentieth century. Having learned the vehemence of white public distaste for black public housing, elected officials never again championed its creation.<sup>24</sup>

Chapter two delves into the liberal rhetoric of “freedom of choice” in public policy. Following the 1954 Supreme Court case *Brown v. the Board of Education*, Baltimore officials desegregated both public schools and public housing projects through the same method—removal of *de jure* segregation. The liberal concept of “free choice,” with its emphasis on individual action and refusal to acknowledge systemic or community influence on decision-making was key for elected officials and policy makers. Baltimore was one of the first southern cities to desegregate its schools and public housing, and did so with relatively little strife. I argue that this lack of conflict is due not to the success of desegregation through “freedom of choice,”

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<sup>24</sup> For more, see Ryan Reft, “The Metropolitan Military: Military Families and Housing in the American Sunbelt, 1941-2000” (PhD diss., University of California-San Diego, 2014).

but rather the inability of said choice to have any meaningful effect against a system of such deeply rooted segregation.

In chapter three, I discuss the realities of Baltimore's public housing program after the city decided to "eliminate the factor of race" in public housing admission. Whether by declaring segregated projects desegregated or opening new projects on a desegregated basis, Baltimore's public housing officials grappled with clear racial divides. Even those projects that did briefly meet the threshold of "integrated" quickly changed over to all-black occupancy. More than a decade after the city's "freedom of choice" plan was implemented, public housing remained effectively segregated; although the overwhelming majority of public housing residents in the city were black, three housing projects maintained all-white occupancy. When HUD demanded affirmative steps to desegregate these three projects, local officials again turned to the rhetoric of "choice" to explain resistance by both white and black residents. I argue that this insistence on maintaining the "freedom of choice" policy was rooted in a desire to elide responsibility for dismantling the very system of residential segregation the HABC had helped create.

Chapter four further explores the conflict between federal officials and the HABC over the emphasis on individual choice in public housing desegregation. In the late 1960s, HUD revised their tenant selection policies and required public housing authorities across the country to implement a new "first come—first served" program. HUD's goal was to centralize public housing waiting lists in an attempt to end situations like Baltimore's, where housing authorities were able to maintain all-white projects. I contend that after an unsuccessful attempt to argue that these projects were, in fact, desegregated, Baltimore officials were able to use the language of choice and emphasis on individual preferences to once again subvert the new HUD requirements to the point of irrelevance.



Chapter five shifts from a focus on tenant selection to one on site selection. In the late 1960s, HUD began efforts to deconcentrate public housing from low-income minority neighborhoods and experimented with new forms of public housing construction, forming the precursors to modern housing voucher programs. In Baltimore, officials struggled with decisions over how to deconcentrate public housing in a city that was rapidly losing white and middle-class residents. While the city's public housing civil servants generally accepted HUD's site selection guidelines and put forward requests to build housing in non-minority neighborhoods, elected officials, remembering the lessons learned decades earlier at Herring Run, refused permissions necessary to build new public housing outside of areas that were already majority black. I argue that, by 1970, the combination of white flight from the city, an ever-larger majority of black residents in public housing, and these site selection decisions created a situation in which integration of Baltimore's public housing projects had become impossible.

The policy rhetoric of "freedom of choice" continued even as the high-rise housing projects came down. As with the original slum clearance efforts that gave rise to large-scale public housing, proponents of HUD's HOPE VI plan often touted its benefits as giving low-income residents more choices about where to live—thus the moniker, "Housing Choice Vouchers." Despite releasing residents from the problems of pre-built public housing projects, the neoliberal shift to vouchers is unable to further meaningful choice because of the reliance on a private housing market that still operates within a society replete with systemic racism. Even as the housing projects have come down, the decisions made by public housing officials and chronicled in these pages established the segregated residential patterns in Baltimore that remain today.



## 2 CHAPTER ONE: HERRING RUN

Following years of debate, in 1937 Congress passed the first piece of federal legislation to develop government-subsidized housing projects for low-income families. In the debate surrounding the Housing Act of 1937, the key point of contention was whether the new housing should be built on vacant land, thus increasing the available housing stock of cities, or be built on cleared land, which would improve the quality of housing in blighted neighborhoods without adding to the overall quantity of housing. Advocates for building on vacant land argued that the creation of housing run as a public utility would lead to long-term “communitarian” values among the working class.<sup>25</sup> These modern housing reformers were more concerned with creating European-style, avant-garde projects for the working classes than improving living conditions for the urban poor. On the other side, progressive activists argued that elimination of slum conditions was paramount not only for the individuals who lived in the blighted neighborhoods, but for cities and society at large. Joined by the real estate lobby, which was concerned about market competition from government subsidized construction, slum clearance advocates prevailed. The 1937 Housing Act passed with an “equivalent elimination” provision, guaranteeing that public housing would not lead to any substantial increases in the total housing stock available.<sup>26</sup>

Housing availability was a particularly pressing issue in cities like Baltimore, where the Great Depression led to a sharp decline in home building. In 1934, only 119 new houses were constructed in Baltimore; for black residents, who depended on the secondhand housing market

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<sup>25</sup> D. Bradford Hunt, *Blueprint for Disaster: The Unraveling of Chicago Public Housing* (Chicago: University of Chicago Press, 2009), 21.

<sup>26</sup> Hunt, 29.

to open up new housing in the segregated city, this underproduction had cascading effects.<sup>27</sup> As the Great Migration brought a huge influx of African Americans from the rural South to the industrial cities of the North, overcrowding of black neighborhoods in Baltimore became dire. From 1940 to 1942, 33,000 new black residents moved to the city, primarily to work in the burgeoning war industries, without any increase in the number of available housing units.<sup>28</sup>

Baltimore's low-income housing projects, which under the terms of the 1937 Housing Act focused on replacing rather than expanding housing stock, did nothing to alleviate the problem. Despite African Americans making up an overwhelming majority of slum residents, the regulations put in place by the Housing Authority of Baltimore City designated 45% of these new public housing units for white people.<sup>29</sup> The racially discriminatory patterns continued in Baltimore even after the federal government passed the Lanham Act in 1940, which was designed to expedite the creation of war worker housing through local housing authorities. Municipal housing authorities signed on to participate in part because wartime housing projects were able to circumvent material rationing and complete building projects that would otherwise have been forced to sit partially finished until the end of the war. By 1943, the city had built or designated seven housing projects for white war workers, but not a single project was designated for black workers.<sup>30</sup> All of these issues would crystalize in the fight over a proposed black housing development in an area known as Herring Run.

By the time the United States entered World War II, the City of Baltimore had already seen an influx of thousands of poor white and black rural Southerners. Hemmed in by strict

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<sup>27</sup> Power, Garrett. "Apartheid Baltimore Style: The Residential Segregation Ordinances of 1910-1913." *Maryland Law Review* 42 (1980), 289-328; Rhonda Y. Williams, *The Politics of Public Housing: Black Women's Struggles Against Urban Inequality* (Oxford: Oxford University Press, 2004), 29.

<sup>28</sup> Callcott, George H. *Maryland and America, 1940-1980* (Baltimore: Johns Hopkins University Press, 1985), 148.

<sup>29</sup> Peter Harry Henderson, "Local Deals and the New Deal State: Implementing Federal Public Housing in Baltimore, 1933-1968," Ph.D. diss, Johns Hopkins University, 1994, 52.

<sup>30</sup> Henderson, 240.

residential segregation and unable to expand outward, the population density of black neighborhoods skyrocketed. Despite the dire housing shortage for black residents, city leaders did everything they could to avoid opening additional areas to black residency. In 1941, Mayor Howard W. Jackson testified before a congressional panel that there was no housing shortage for blacks in Baltimore. His statement directly contradicted that of Dr. Abel Wolman, Chairman of the State Planning Commission, who testified that the city needed at least 9,000 housing units for lower-income workers. Mayor Jackson and other politicians wished to reject federal funding because they feared black workers would remain in the rent-free housing after the war ended, destabilizing the city and placing an extra burden on public relief rolls. Congressman Harry Streett Baldwin also claimed that “in-migrant colored laborers,” as opposed to “worthwhile Baltimore citizens,” were lazy and unreliable. “That’s the kind we’re going to get,” he proclaimed, “because there’s no other kind left to come. And what earthly good are these people to the war industries?”<sup>31</sup> Instead of building housing for these workers, Baldwin proposed they should be put in trailer camps “so they can be easily moved out after the war is over.”<sup>32</sup>

The federal government was not persuaded by these protestations by city leaders, especially after a 1942 spot-check of one city block found 590 workers sharing 121 rooms, with only 53 bathtubs between them.<sup>33</sup> On February 26, 1943, the National Housing Agency authorized the construction of 2,000 new housing units for black war-workers.<sup>34</sup> Once again, the idea of using vacant land to increase the city’s housing stock was in play. Though activist groups including the Citizens Planning and Housing Association insisted that the only solution to the “Negro housing situation” was to designate additional land for black housing development, real

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<sup>31</sup> “State Official, Congressman Protest Site, *Afro-American*, July 31, 1943.

<sup>32</sup> “Negro Homes Plan Scored by Baldwin,” *Baltimore Sun*, July 16, 1943.

<sup>33</sup> *Baltimore Evening Sun*, September 21, 1942.

<sup>34</sup> “Housing is Delayed Again; City Council to Pass on Sites,” *Afro-American*, July 31, 1943.

estate men denied the need, claiming that the market was the final arbiter.<sup>35</sup> One agent claimed the existence of vacant homes near Baltimore war plants reflected a lack of demand, despite the homeowners' refusal to sell those homes to black buyers.<sup>36</sup> In response to this disagreement, Maryland Governor Herbert O'Connor created a Commission on Problems Affecting the Negro Population. In their 1943 report, the Commission argued that vacant land "in and adjacent to the City of Baltimore must be made available for Negro housing to take care of the present overcrowded situation and for future development." In the meantime, the report suggested, dormitories and temporary barracks could be set up inside large buildings and public parks, and residents not employed in the war industry should be encouraged to move further away from defense plants to make space for war workers.<sup>37</sup>

Under the terms of the Lanham Act, the decision of where to place temporary housing for war workers (white or black) was under the purview of the Federal Public Housing Authority (FPHA), but it was the traditional practice of the FPHA to consult with local governments for their input. The first seven housing sites for white war workers went ahead without much dispute. When the FPHA began exploring locations for black war workers, however, they were met with immediate resistance. The first proposed site, a vacant tract along Eastern Avenue, was quickly abandoned after overwhelming protest by white residents in the neighboring areas. In response, the FPHA chose Herring Run, an industrial area in the eastern portion of the city near several defense plants, but away from the "semi-suburban developments" of East Baltimore.<sup>38</sup>

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<sup>35</sup> History of CPHA's relations with Mayor, BHA Commissioners, and FPHA, 1945-1946, Series 1, Box 2, Folder 2, Citizens Planning and Housing Association (CPHA) Collection, University of Baltimore Langsdale Library Special Collections, Baltimore, Maryland.

<sup>36</sup> H.F. Engelhardt first claimed the government would not permit black people to live in those homes, but when pressed by an *Afro-American* reporter that there was no such law in place, Engelhardt admitted "the owners might object." ("Housing Foes Tell Why They Oppose Homes," *Afro-American*, July 24, 1943)

<sup>37</sup> Maryland Governor's Commission on Problems Affecting the Negro Population. *Report of the Governor's Commission on Problems Affecting the Negro Population*. (Report, Baltimore, 1943).

<sup>38</sup> "Belair Road Has No Reason to be Perturbed," *Baltimore Sun*, July 13, 1943.

Though the Lanham Act was only authorized to fund temporary emergency housing during the war, the federal authority recommended that “sites selected...should have in mind future permanent buildings,” especially in cities like Baltimore where chronic housing shortages predated the influx of war workers. Statements like these did housing advocates no favors; from the outset, public statements issued by the housing authority and disseminated by the press stoked white fears about the creation of permanent black housing near their neighborhoods.<sup>39</sup> It seemed to many that whatever site picked to house black war workers would eventually become a permanent black enclave. In April 1943, the *Baltimore Sun* quoted John D. Steele, chairman of the City Plan Commission, who said that Herring Run, “lends itself to the purpose that we are thinking of as the beginning of a permanent colored-area development along modern lines to accommodate those in whatever financial strata.”<sup>40</sup> To those fearful of “negro encroachment,” then, a black housing development at Herring Run would allow the strictly delimited black neighborhoods of Baltimore to spread into their backyards. Lutheran minister Luke Schmucker declared that if a black housing project was placed at Herring Run, white war workers would be set upon “in the streets, in the cars and buses, in the stores and movies, and even in the schools.”<sup>41</sup>

Encouraged by success in blocking the plans for black war worker housing at an Eastern Avenue site, an organization later known as the Northeast Civic Groups held a series of meetings

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<sup>39</sup> There were practical reasons for building permanent, rather than temporary, war housing; by building permanent homes to be turned over to the HABC afterwards, instead of temporary ones to be torn down, the government could authorize \$5,000 per unit cost instead of only \$3,500. “War Housing Is Held Up as Agencies Play Game of Hide-Seek,” *Afro-American*, May 1, 1943.

<sup>40</sup> “Area in Eastern City Suburbs Suggested for Negro Housing,” *Baltimore Sun*, April 17, 1943.

<sup>41</sup> Correspondence from Luke Schmucker to “Dear Friends,” 1 July 1943, BRG 9-22, box 253, Baltimore City Archives.

The first location suggested for the 2,000 new units of housing sat at Eastern Avenue and North Point Road. After an immediate and focused backlash, officials left off discussions of the Eastern Avenue site and presented as an alternative Herring Run.

to discuss challenging the proposed plans for Herring Run.<sup>42</sup> Their president, speaking on behalf of the Belair Road Improvement Association and “at least twenty-five” other groups, stated he feared the new housing “would depreciate the value of present properties in the vicinity,” which referred to those owned by whites.<sup>43</sup> Similarly, Reverend T. Vincent Fitzgerald, the pastor of St. Anthony’s Catholic Church, claimed that if the Herring Run development went forward, it would jeopardize a \$1,000,000 investment in the parish. If black housing were to be allowed at Herring Run, he claimed, “I can’t pay it off.”<sup>44</sup>

In a meeting before the Housing Authority of Baltimore City<sup>45</sup> (HABC) Chairman Cleveland Bealmear, local residents claimed the plans for black housing at Herring Run would “destroy property values.”<sup>46</sup> Chairman Bealmear was no stranger to Mayor Jackson, and the two had worked together in the past on a business-friendly agenda. In the 1930s, Jackson had appointed Bealmear to the Baltimore Emergency Relief Commission (BERC). The BERC, though ostensibly tasked with coordinating relief activities for Baltimoreans during the Great Depression, was investigated by the Federal Emergency Relief Administration in 1933 and 1934 for mismanaging relief programs in efforts to reduce the number of people “on the dole.”<sup>47</sup>

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<sup>42</sup> At the time, they called themselves the Belair Road Improvement Association, but re-branded soon after. “New Negro Housing Site is Protested,” *Baltimore Sun*, Apr. 20, 1943.

<sup>43</sup> In a Letter to the Editor, city resident Willis R. Jones called out arguments like these “a disgrace” which “completely ignores the obligation which we owe to our fighting forces. No injury can result in any property owner in the Herring Run section that will approximate the sacrifices being made by our soldiers, sailors, and marines.” (“Letter to the Editor,” *Baltimore Sun*, Aug. 13, 1943) Likewise, Baltimore CIO Council President James Drury called concerns over property values “quibbling” and said “the type of people who are arguing against the project are thinking in terms of personal gains rather than of winning the war.” (“State Official, Congressman Protest Site; 100 Urge Action,” *Afro-American*, July 31, 1943.)

<sup>44</sup> “Negro Housing Foes Boo and Cheer Mayor,” *Baltimore Sun*, July 14, 1943.

<sup>45</sup> The Housing Authority of Baltimore City went through several names; at the time of Herring Run, the local authority was known as simply the Baltimore Housing Authority, or BHA. I have standardized the name throughout for consistency.

<sup>46</sup> “Herring Run Groups Organize to Fight Negro Housing Plan,” *Baltimore Sun*, April 23, 1943.

<sup>47</sup> For more on the BERC, see Jo Ann E. Argersinger, *Toward a New Deal in Baltimore: People and Government in the Great Depression* (Chapel Hill: UNC Press, 1988).



After James Edmunds resigned as chair of the HABC to pursue defense housing contracts, Bealmear took on the leadership role. His appointment was clear evidence of the Jackson administration's distaste for public housing. As a realtor and former chairman of the Real Estate Board's Home Builders' Division, Bealmear had lobbied against public housing in the city, fearing it would "compete with private industry and private capital now invested in housing." Like many others in his field, Bealmear believed that public housing was "not only...unfair competition, but a means of establishing what we believe will develop into a permanent dole system for a large number of citizens." Though Bealmear disliked public housing in general, he especially objected to vacant land project development, denying any claims of market failure and espousing instead that "private enterprise...if let alone by the government would provide all housing in Baltimore for which there was effective demand."<sup>48</sup> Despite Bealmear's distrust of federal intervention in housing, under his leadership, the HABC calculated that 22,700 households in the city lived on incomes so low that they could only afford rental payments at or below \$33 a month—the point at which housing was no longer profitable to the private market.<sup>49</sup>

The HABC continued to disavow any input into the process in public meetings, including one in which Bealmear once again emphasized that "The Baltimore Housing Authority has no power to choose the site." Furthermore, he claimed that when the HABC had refused to approve the proposal of the original Eastern Avenue site, "Federal officials paid no attention to them and

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<sup>48</sup> Correspondence Cleveland Bealmear to A.R. Clas, 11 June 1935, H-2700.09, RG 196, PHA Project Files, Box 2017. National Archives..

<sup>49</sup> Cleveland Bealmear, "Post-war Housing Program for Baltimore: Generate Statement, Part I," (Preliminary Report), January 1944, RG 29, S1, Box 29, File: Housing, Baltimore City Archives. With this measure, the calculation for the 1944 projected housing need was 20,000 new units over 16 years. That this figure was artificially low is evidenced by a revision upwards to 41,000 in 1945, and 60,000 in 1947 under new HABC leadership. HABC, "The Story of Public Housing," (Report, Baltimore: 1945); HABC, "Monthly Report of Progress and Activities," (Report, Baltimore, July 1949), 5.

only hesitated in their program when objectors staged a mass protest meeting.” With this statement, Bealmear moved from distancing himself and his agency from any decision-making power to actively encouraging white residents to once again resist the site placement in hopes that they could do what Bealmear’s agency could not. Adding fuel to the fire, Bealmear told the meeting, “‘there is no doubt in my mind’ that whatever site the Government selects will be used as a permanent settlement,” a statement he surely knew would reignite white opposition to the plans.<sup>50</sup>

Neighborhood objectors were listening. They quickly planned demonstrations and filed a formal protest with the City Plan Commission, one of the groups responsible for suggesting Herring Run. In addition, the president of the Belair Road Improvement Association led a delegation to the mayor’s office, demanding the Herring Run site be withdrawn from consideration. Mayor Jackson felt the effects of the increased pressure; when asked to comment, he claimed that increased housing for black residents was not needed at all, despite overwhelming evidence to the contrary. Just weeks before the mayoral election, Jackson gave very different statements to the mainstream press and to the black weekly newspaper. To the *Baltimore Sun*, Jackson said, “We have a problem in regard to the housing of our permanent Negro population. I agree that this problem must be solved. But it has not been proved, in my opinion, that there is a need at the Martin plant or the Bethlehem Steel Company that would warrant the building of this temporary Negro war workers’ housing.”<sup>51</sup> On the other hand, in the *Baltimore Afro-American*, Mayor Jackson was quoted as saying, “there should be prompt construction of the homes, regardless of protests if the Federal Housing Authority feels that there

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<sup>50</sup> “Herring Run Groups Organize to Fight Negro Housing Plan,” *Baltimore Sun*, Apr. 23, 1943.

<sup>51</sup> “Housing Plan Protest Set,” *Baltimore Sun*, Apr. 24, 1943.

is immediate need for them.”<sup>52</sup> Though difficult to rectify these two positions, Jackson appeared to be attempting to thread the needle of supporting the clear need for more housing for black Baltimoreans, while objecting to the spread of black neighborhoods through the creation of black war worker housing.

In mid-April of 1943, Baltimore’s housing officials submitted several sites for consideration by the FPHA. Although the FPHA continued to insist that the chosen site would be in the northeastern section of the city near manufacturing centers, the HABC submitted several sites in the southwestern portion of the city, nearer to the existing black neighborhoods.<sup>53</sup> Herring Run was also included on the list, due to insistence by the City Plan Commission. Even so, HABC Chairman Bealmear insisted that his agency did not support the site and that the HABC was “only lending its services as a matter of courtesy” to the FPHA by sending the suggestions.<sup>54</sup>

Protesters were not convinced, and in part due to the negative response surrounding Herring Run, Federal Housing Authority officials announced on April 26 that instead of building temporary housing, the agency would now fund permanent housing for black war workers.<sup>55</sup> While the FHA had authority under the Lanham Act to choose the location for temporary

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<sup>52</sup> “Has Urged Homes Be Erected, Mayor Says,” *Afro-American*, May 1, 1943.

<sup>53</sup> “Herring Run Negro-Housing Site Favored,” *Baltimore Sun*, July 11, 1943.

<sup>54</sup> “Housing Site Suggestions Given to FPHA,” *Baltimore Sun*, Apr. 21, 1943.

<sup>55</sup> “Temporary Housing Plan is Abandoned,” *Baltimore Sun*, Apr. 27, 1943.

The other reason for changing their plans, explained FPHA Regional Director Oliver Winston, was the “overwhelming sentiment” that permanent black housing development was needed in the city to help “alleviate the unsafe, insanitary [*sic*] and overcrowded housing conditions under which so many Negroes are living.” (“Herring Run Site Set for Negro Housing,” *Baltimore Sun*, July 31, 1943.) While not expressing support specifically for permanent housing, McKeldin had made multiple statements about black overcrowding, including in his inaugural address when he stated “our community’s primary interest is in the resulting ultimate easing of the housing congestion and in the improvement of local health and living conditions” for black neighborhoods in the city. (“Herring Run Negro-Housing Site Favored,” *Baltimore Sun*, July 11, 1943) Later he went on to say to protestors, “When I assumed the office of Mayor, there was this problem of colored housing -- not of my making, nor of yours, but whether we liked it [or] not, it was here.” (“Crowd of 800 Boos Mayor of Housing Stand,” *Afro-American*, July 24, 1943.)

housing, this change to permanent housing placed the location decision in the hands of the Baltimore government—specifically, the Housing Authority of Baltimore City. Encouraged by control moving to local hands, protest group leaders stated they “had been given assurances” that “all plans for the erection of Negro housing” in the Herring Run area had been abandoned. The HABC denied such a definitive statement, saying that although Herring Run had not been abandoned, “exhaustive studies are being made of other areas.”<sup>56</sup>

While this decision moved the focus of protest away from federal officials, it renewed objections to the creation of permanent housing for black Baltimoreans and revived fears of black residents “invading” white neighborhoods. Fifteen years earlier, attorney J.K. Barbour claimed that “all of East Baltimore has been invaded,” and in 1943, protesters against the Herring Run site again used the term to stoke fears about potential black residents.<sup>57</sup> Northeast Civic Groups attorney John Gontrum referred to the Great Migration as “the second time we have had an invasion. The first was in 1814; and now they want to bring in another foreign invasion of Southern laborers.”<sup>58</sup> Others in the Northeast Civic Groups referred to Herring Run as an “unwarranted intrusion,” including Reverend Fitzgerald of St. Anthony’s Catholic Church, who claimed “I, personally, have no animosity towards colored people,” while objecting to allowing black workers living ten blocks away from his church. Another said, “I believe that colored people should have a decent place to live, but not in with us.”<sup>59</sup> Northeast Civic Groups’ president, H.E. Thursby, went on the record saying, “We have nothing against colored people, but we are unalterably opposed to and vigorously protest construction of the project” in their

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<sup>56</sup> “Housing Site Stand Taken,” *Baltimore Sun*, Apr. 28, 1943.

<sup>57</sup> “Anti-Marriage Law Blamed in Segregation,” *Baltimore Afro-American*, March 10, 1928.

<sup>58</sup> “State Official, Congressman Protest Site; 100 Urge Action,” *Afro-American*, July 31, 1943.

<sup>59</sup> “Housing Foes Tell Why They Oppose Homes,” *Afro-American*, July 24, 1943.

neighborhood.<sup>60</sup> The group likewise spoke to white solidarity across the class divide, telling city officials, “if they do this to us they can invade Roland Park where some of you gentlemen live. If our rights are overridden, no rights of any one in Baltimore City or county will be protected.”<sup>61</sup> With their newfound power to decide on the housing site, local authorities spent months in a deadlock with the HABC refusing to approve Herring Run while the City Plan Commission insisted upon it.

In the midst of this controversy, Baltimore held a mayoral election. During the campaign, candidate Theodore McKeldin said of the incumbent, “the Mayor has not taken any part in the discussion of the Negro housing project. The Mayor ought to make the initiative of that.”<sup>62</sup> Following his win, McKeldin addressed the “crying need” for additional black housing in his inaugural address, a topic on which “Mr. McKeldin spoke with deep conviction,” according to the *Baltimore Sun*.<sup>63</sup> In his first week as mayor, McKeldin convened an interracial commission to study the problem and submit a recommendation.<sup>64</sup> In theory, the interracial commission would visit possible housing sites and meet with the HABC, the City Plan Commission, and representatives of the FPHA to come to a solution. In July, however, McKeldin announced that despite their best efforts, the interracial commission had been unable to come to an agreement on a single site that had the approval of all the involved agencies. Three of the groups — the interracial commission, the City Plan Commission, and the Citizens Planning and Housing Association — all agreed that Herring Run should be the recommended site put forward to the

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<sup>60</sup> “Crowd of 800 Boos Mayor for Favoring Colored War Homes,” *Afro-American*, July 24, 1943.

<sup>61</sup> “State Official, Congressman Protest Site; 100 Urge Action,” *Afro-American*, July 31, 1943.

<sup>62</sup> Sherwood, Harry S. “McKeldin, Confident of Election, Reveals Why He Wants Mayor’s Job,” *Baltimore Sun*, April 28, 1943.

<sup>63</sup> “Mr. McKeldin Starts His Term with a Promising Inaugural,” *Baltimore Sun*, May 19, 1943.

<sup>64</sup> Franklyn L. Baumgart, “Under the Dome of City Hall: Mayor McKeldin Makes Exhaustive Study,” *Baltimore Sun* May 30, 1943; “On the Mayor’s Plan for a Negro Housing Commission,” *Baltimore Sun*, May 31, 1943.

FPHA for new black housing.<sup>65</sup> The HABC still disagreed, and it was their choice that mattered most.

McKeldin made attempts to convince Chairman Bealmear and the other members of the HABC to select Herring Run by appealing to the poor physical condition of the site. Although the land technically abutted Herring Run Park, few Baltimoreans would even recognize it as such, because it was far away from the developed portions of the park on what the *Baltimore Sun* referred to as "waste land." Moreover, the *Sun* writer argued, the land was not part of the "pleasant semi-suburban developments" near Belair road and instead ran near a massive set of power lines.<sup>66</sup> Because of these limitations, McKeldin said, Herring Run would be the least likely of the available sites to draw significant protest. McKeldin also appealed to the HABC's fiscal sense, pointing out that if the city failed to agree on a site, it risked losing significant federal financial support to solve its ongoing housing crisis.<sup>67</sup>

With Mayor McKeldin on board for Herring Run, it seemed that final approvals were forthcoming and construction could finally begin on the much-needed housing project. Oliver Winston, FPHA Regional Director, went so far as to say that with the interracial commission, City Plan Commission, and FPHA "in complete accord" on Herring Run, "there is absolutely no reason to think that we cannot approve the site," and "acceptance of it is a foregone conclusion."<sup>68</sup> Winston spoke too soon. The HABC persisted in its rejection of Herring Run, with Chairman Bealmear insisting that if the FPHA chose the site over their objections, they would ask the Board of Estimates "to approve the proposal without our making a recommendation on it," effectively absolving the HABC from responsibility for opening up

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<sup>65</sup> "Herring Run Negro-Housing Site Favored," *Baltimore Sun*, July 11, 1943.

<sup>66</sup> "Belair Road Has No Reason to be Perturbed," *Baltimore Sun*, July 13, 1943.

<sup>67</sup> "Herring Run Negro-Housing Site Favored," *Baltimore Sun*, July 11, 1943.

<sup>68</sup> "Winston Sees Herring Run Site Approval," *Baltimore Sun*, July 12, 1943.

black housing in East Baltimore. Winston shot back, “Should the HABC come forward, even at this late date, with an appropriate site...which represents as sound principles as the Herring Run site, the FPHA will give it full consideration.” Instead, the HABC continued to recommend sites only in Southwest Baltimore, knowing full well that the FPHA wanted war housing built near the factories in the east. By making these recommendations, the HABC claimed to be working to increase the housing stock of the city, while also signaling to white Baltimoreans that they were fighting against federal authority to keep black people out of white neighborhoods.<sup>69</sup>

Neighborhood protests increased. In the intervening months, the Northeast Civic Groups had grown to encompass 75 organizations.<sup>70</sup> “The people out here don’t want it, and they are not going to have it, even if we have to march 20,000 strong on the City Hall to prevent it,” the group’s chairman insisted.<sup>71</sup> And march they did. On July 13, a group of 750 gathered downtown at the Baltimore War Memorial to confront McKeldin; a week later, another group of 800 marched.<sup>72</sup> Both times the mayor attempted to limit the appearance of his own involvement in the actual decision-making process. The first time he told the group, “If I had selected this site I would have had the courage to stand up here and say so.”<sup>73</sup> To the second group, he insisted, “I tried to get the various bodies to agree on one site but that was utterly impossible. So I appointed an interracial commission....That is all I have done.” Neither side was appeased — white protests continued, while the *Afro-American* accused McKeldin of “passing the buck” by refusing to take a definitive stand for or against the project.<sup>74</sup> The mayor continued to claim neutrality, saying that it was not his “prerogative” to choose the site. “All I have done...is to

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<sup>69</sup> “BHA Restates Position on Housing Site,” *Baltimore Sun*, July 13, 1943.

<sup>70</sup> “35 Spokesmen Protest Herring Run Proposal,” *Baltimore Sun*, July 13, 1943.

<sup>71</sup> “Winston Sees Herring Run Site Approval,” *Baltimore Sun*, July 12, 1943.

<sup>72</sup> “Negro Housing Foes Boo and Cheer Mayor,” *Baltimore Sun*, July 14, 1943; “Crowd of 800 Boos Mayor for Favoring Colored War Homes,” *Afro-American*, July 24, 1943.

<sup>73</sup> “Negro Housing Foes Boo and Cheer Mayor,” *Baltimore Sun*, July 14, 1943.

<sup>74</sup> “Crowd of 800 Boos Mayor for Favoring Colored War Homes,” *Afro-American*, July 24, 1943.

submit recommendations to them from the two commissions,” he insisted. “Actually, I have never even seen the Herring Run Park site.”<sup>75</sup>

Despite his attempts to walk the thin line of supporting the decision on Herring Run without supporting the site itself, McKeldin found himself in political hot water. Seeing that their protests had not been enough to halt the proposal, the Northeastern Civic Groups hired three lawyers to wage a legal fight.<sup>76</sup> Simultaneously, the City Plan Commission fell under fire by the Baltimore City Council, particularly council vice president James F. Arthur, who asked members of the commission if they were being “pressed” by federal authorities “who seem anxious to encroach on the rights of our people.” He furthermore accused the commission of malfeasance, claiming that the commissioners were violating a resolution that they should only consider sites approved by the HABC. Since HABC Chairman Bealmear refused to back Herring Run, Arthur claimed the commission had no right to consider the site.<sup>77</sup> Following this scrutiny, the City Plan Commission held two days of hearings with groups in favor of and against Herring Run. At the end of them, the commission passed a new resolution affirming its recommendation of Herring Run as “the most logical spot within the city limits” and “a site ideal for its purpose.”<sup>78</sup>

Undeterred, the lawyers employed by the Northeast Civic Groups went to work on Mayor McKeldin directly. Backed by the city solicitor, the attorneys argued that neither of the commissions had standing to approve housing sites on behalf of the city, and that the “recommendation would have to come from the municipal corporation as a whole acting through the City Council.”<sup>79</sup> While the mayor acquiesced to the rights of the City Council to make a

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<sup>75</sup> “FPHA Puts Negro Housing Up to Mayor,” *Baltimore Sun*, Aug. 11, 1943.

<sup>76</sup> “Housing Battle in its Legal Stage,” *Baltimore Sun*, July 20, 1943.

<sup>77</sup> “Seeks Motive of Plan Board,” *Baltimore Sun*, July 18, 1943.

<sup>78</sup> “Housing Site is Reaffirmed,” *Baltimore Sun*, July 22, 1943; “Housing is Delayed Again; City Council to Pass on Sites,” *Afro-American*, July 31, 1943.

<sup>79</sup> Franklyn L. Baumgart, “Under the Dome of the City Hall,” *Baltimore Sun*, July 25, 1943.



recommendation, he reminded them that, due to the War Powers Act, the federal government had supreme authority over the city in developing war worker housing. In response, the City Council immediately set to work drafting a city ordinance to prohibit the federal government from constructing war housing in Baltimore without prior approval from the city.<sup>80</sup>

Alongside the City Council, several politicians joined the fray, including Democratic U.S. Senator Millard Tydings, and Congressmen H. Streett Baldwin and Thomas J. D'Alesandro, Jr. Baldwin went on the record saying that the Herring Run proposal "was part of a socialist experiment being carried on all over the country,"<sup>81</sup> and later referred to it as "a vast development, entailing the expenditure of many millions of dollars as a social experiment."<sup>82</sup> D'Alesandro, seeing a great political opportunity, also joined in.<sup>83</sup> He attacked McKeldin's handling of the recommendation process, saying that the mayor never attended any HABC meetings or allowed the members to explain their reasons for refusing Herring Run. He further sought to force McKeldin to declare his position for the record, saying, "There is just one question I would like to ask Mayor McKeldin, Mr. Mayor are you or are you not in favor of the Herring Run site?"<sup>84</sup>

McKeldin was unable to answer, as he had left for a two-week vacation to Maine shortly after calling the City Council into session. In his absence, the council passed their new ordinance. Under the new ordinance, the federal government was required to first apply to the mayor for permission build on a site, who had to then submit to the City Council and the Board of Estimates for approval.<sup>85</sup> Supporters claimed that the provisions of the ordinance "were in line

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<sup>80</sup> "Council Votes City Control of Housing," *Baltimore Sun*, July 27, 1943.

<sup>81</sup> "Negro Housing Site Up to Council," *Baltimore Sun*, July 25, 1943.

<sup>82</sup> "Council Votes City Control of Housing," *Baltimore Sun*, July 27, 1943.

<sup>83</sup> D'Alesandro Jr. ran for mayor against McKeldin in 1947 and won.

<sup>84</sup> "Council Votes City Control of Housing," *Baltimore Sun*, July 27, 1943.

<sup>85</sup> "Fails to Act on Housing," *Baltimore Sun*, July 28, 1943.

with the theories of local self-government,” and a matter of protecting the city’s interests.<sup>86</sup> With McKeldin away, it fell to the head of the City Council to sign the ordinance. Even with the ordinance in place, FPHA leadership maintained that, due to the War Powers Act, the federal government had the right to build worker housing with or without local approval.<sup>87</sup>

Even with McKeldin gone and the City Council asserting their authority, Representative D’Alessandro did not let up his pressure on the mayor. He released a letter to the *Baltimore Sun* in which he again called upon McKeldin to give a definitive answer on whether or not he approved of the Herring Run site. As D’Alessandro pointed out, McKeldin’s approval of the recommendation by the City Plan Commission and the interracial commission had been taken as tacit approval of the site itself. D’Alessandro wrote, “Washington has interpreted your action in forwarding these recommendations as an approval by you, as the Mayor of Baltimore, of this particular site,” and thus approval by the “duly constituted authorities” of the city.<sup>88</sup>

Perhaps because of that implied approval, or because they were tired of the months of political dealings with the city officials, FPHA representatives continued to move forward with plans for Herring Run. On July 30, FPHA Commissioner Herbert Emmerich announced that not only had the federal agency officially selected the Herring Run site, but that the work would begin “as rapidly as possible” because of the immediate need for worker housing as part of the war effort. He reminded the City Council that there was no requirement in federal law to seek city approval before building war housing, and “as a matter of fact, there is an express provision

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<sup>86</sup> “Council Votes City Control of Housing,” *Baltimore Sun*, July 27, 1943, “To Build War Homes on Herring Run Site,” *Afro-American*, Aug. 7, 1943.

<sup>87</sup> “Fails to Act on Housing,” *Baltimore Sun*, July 28, 1943. Councilmen who refused to vote for the ordinance stated they believed it was invalid “because the Council does not have authority to prohibit the Federal Government from exercising its sovereign powers,” and the Baltimore chapter of the National Lawyer’s Guild called it “an attempted usurpation of Federal power in wartime.” (“Fails to Act on Housing,” *Baltimore Sun*, July 28, 1943, “War-Housing Site Protest Slated Today,” *Baltimore Sun*, Aug. 10, 1943.)

<sup>88</sup> “FPHA Getting Herring Run Plans Ready,” *Baltimore Sun*, July 29, 1943.

in the Lanham Act that these projects may be constructed without regard to any municipal laws, ordinances, rules, or regulations.”<sup>89</sup>

Having failed to stop Herring Run through city ordinance, City Council members and the Northeastern Civic Groups’ lawyers continued to threaten legal action, pledging to take their fight “to the Supreme Court if necessary.”<sup>90</sup> City Councilman James F. Arthur, taking over duties as acting mayor, called Herring Run, “a large expensive and elaborate permanent housing site for Negroes in Baltimore in the nature of a socialistic experiment.”<sup>91</sup> He claimed, “the issue raised is one of States’ rights and local self-government vs. arbitrary Federal bureaucracy,” elevating the matter from a disagreement over a single plan to erect housing to a matter of the federal government forcing integration onto local bodies despite their protests, a reframing of integration efforts that would continue to echo into the 1950s and 1960s.

Still on his vacation in Maine, McKeldin continued to “pass the buck” as he dodged requests to go on the record as approving Herring Run. In a phone call to the *Sun*, he stated the FPHA “obviously has the right to select the site. I don’t see any way to stop it.” “At this distance,” he said, “it seems to me I have done all I can possibly do....Now it is up to the Federal Government to build the houses.”<sup>92</sup> The City Solicitor, F. Murray Benson, disagreed. In his view, since, as Mayor McKeldin insisted, he had “simply forwarded the findings” by the commissions on to the FPHA, that was not enough to constitute city approval. In this case, Benson argued, such authority belonged only to the HABC, which had repeatedly and consistently refused the Herring Run location. In Benson’s opinion, the FPHA was acting “illegally and improperly, and under the guise of the war emergency, to accomplish the avowed purpose of permanently

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<sup>89</sup> “Herring Run Site Set for Negro Housing,” *Baltimore Sun*, July 31, 1943.

<sup>90</sup> *Ibid.*

<sup>91</sup> “Herring Run Appeal Urged,” *Baltimore Sun*, Aug. 1, 1943.

<sup>92</sup> “Mayor Okays Herring Run Housing Plan,” *Baltimore Sun*, Aug. 2, 1943.

altering the traditional plan for the development of Baltimore city.”<sup>93</sup> Benson’s phrasing is important — in addition to accusing the agency of using World War II as an excuse to expand federal powers, he was directly linking this expansion of powers to forced integration, rights for black residents, and civil rights writ large.

Pressure came down from Congress on the FPHA as well, when Senator Tydings and Representatives Baldwin and D’Alesandro convened a meeting in Washington. D’Alesandro warned that any effort by the FPHA to move forward with the Herring Run site “may bring a Congressional investigation.” Baldwin threatened the FPHA’s funding, saying “if Congress knew the money (for the site) was to be used for this kind of project you would not have gotten it, and you would not get any more,” again raising the specter of federal meddling in racial affairs. The other congressmen also echoed these claims of federal encroachment on state and local governance. Said D’Alesandro, “This country is a democracy and the people speak through their chosen representatives. As such, I respectfully recommend that you reconsider your decision.” Senator Tydings pointed out, “opposition is ten times greater than ever to the selection of the site,” and told Commissioner Emmerich, “I can’t see the reason for building these houses when the whole city is protesting....I don’t say these protests are fair or not, but I do say the protestants are within their rights to oppose this site.”<sup>94</sup> In this framing, Tydings endorsed the rights of individuals to protest because of their racist views, without endorsing their viewpoint himself.

The FPHA’s choice to change the plans from temporary to permanent housing, and thus try to avoid protest by passing the responsibility of site selection to the city, was proving to be a mistake. Finding their position tenuous, FPHA officials recognized the need for definitive

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<sup>93</sup> “FPHA Course Illegal, Says City Solicitor,” *Baltimore Sun*, Aug. 5, 1943.

<sup>94</sup> “Site Seizure Faces Problem: D’Alesandro,” *Baltimore Sun*, Aug. 6, 1943.

approval by some elected city official to proceed with the construction of Herring Run. As such, Commissioner Emmerich called upon Mayor McKeldin, now returned from Maine, to give an official statement for or against “using the Herring Run Park site for a Negro housing development.”<sup>95</sup> Though McKeldin had been able to skirt the issue for months, the FPHA was now bringing pressure directly to bear on him. The FPHA had heard from multiple elected officials against the site, while McKeldin still refused to speak on the project. As Regional Director Winston explained, “If there are any such proponents, they have kept quiet; they haven’t come to us; all we get is the opposition group.”<sup>96</sup> Writing to McKeldin, Commissioner Emmerich told him, “We had every reason...to conclude that you joined in these recommendations and spoke for the city,” but now found it necessary that the mayor answer “definitively and promptly” whether he approved of the development at Herring Run.<sup>97</sup>

When McKeldin again responded that the choice was not his responsibility, the FPHA continued to press for a clear yes or no answer, “whether or not the city government approves the selection.” If McKeldin did not give his official approval on behalf of the city, the federal agents emphasized, the plans to build permanent housing at Herring Run would be scrapped.<sup>98</sup> Instead of building permanent housing, thereby helping to relieve dire housing shortages for black residents and creating a housing site that would become the property of the HABC after the war, the FPHA would go back to their original plans of building temporary housing instead. The city would thus lose out on millions of dollars of federally subsidized construction that could otherwise be used to alleviate the city’s housing problems.

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<sup>95</sup> “FPHA Puts Negro Housing Up to Mayor,” *Baltimore Sun*, Aug. 11, 1943.

<sup>96</sup> “Influence of Congressmen Blocks Project,” *Afro-American*, Aug. 14, 1943.

<sup>97</sup> “FPHA Puts Negro Housing Up to Mayor,” *Baltimore Sun* Aug. 11, 1943.

<sup>98</sup> “Mayor is Asked for City Decision on Herring Run,” *Baltimore Sun*, Aug. 15, 1943.

Mayor McKeldin had nowhere left to hide, no buck to pass along, and had to officially take a stand. Faced with the opposition of an entirely Democratic City Council, the Republican mayor caved.<sup>99</sup> Still avoiding saying whether he personally favored the Herring Run site, the Mayor instead backed the right of Baltimore City Council to choose the housing site as covered by their city ordinance. He said, “As Mayor it is my duty to respect the ordinance. I have been fully informed as to the sentiments of the individual Councilmen and they have not and will not select Herring Run.” His choice made, McKeldin declared “Herring Run is as dead as the dodo.”<sup>100</sup> The *Afro-American* placed the blame for losing the site clearly on McKeldin’s shoulders, as did the NAACP of Baltimore, which issued a letter accusing him of damaging the war effort by causing the city to lose “this gravely needed project.” “We discover that your interest in housing for colored people is limited by expedience,” they wrote, and failing to support Herring Run “caused a lot of us who had great faith in you...to experience grave disappointment.”<sup>101</sup> Having lost the black community’s support, McKeldin also lost his 1947 re-election bid — to Representative D’Alesandro.

True to their word, the FPHA announced that, lacking city approval for permanent housing at Herring Run, “there is only one course open to us, build temporary housing on sites we will choose.” Due to the urgent need for black war worker housing in Baltimore, the FPHA endeavored to build “as quickly as possible.”<sup>102</sup> As temporary projects built under the Lanham Act, the housing on site would be torn down within two years of the war’s end. Following this announcement, the editors of the *Baltimore Sun* ran an impassioned argument against the decision, charging that “the great long-range need” was to “find an area offering the Negro

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<sup>99</sup> “Major Task Ahead for Mayor and Councilmen,” *Baltimore Sun*, Aug. 30, 1943.

<sup>100</sup> “Herring Run Site is Out, Says Mayor,” *Baltimore Sun*, Aug. 17, 1943.

<sup>101</sup> “Permanent Housing Out After Mayor Fails to Approve Site,” *Afro-American*, Aug. 28, 1943.

<sup>102</sup> “FPHA Gives Up Permanent Housing Plan,” *Baltimore Sun*, Aug. 20, 1943.

population of Baltimore an opportunity to escape from the enclaves in which their homes are now confined” by opening up new areas to black residents. Temporary housing, they feared, would not go far enough.<sup>103</sup>

While it was the usual policy of the Federal Government to lease property upon which temporary war housing was built, in this case, the FPHA brought legal condemnation proceedings to acquire the land for Herring Run out of fear that landowners would refuse to cooperate. In addition to asserting the rights of the Federal Government to take possession of any necessary location to build war worker housing, FPHA officials explained that Herring Run was selected “after full consideration of all factors involved,” and “the advisory opinions received during the many and lengthy consultations...with local public officials and with various citizens groups.” As soon as the condemnation proceedings were filed with the courts, the City Council directed the city solicitor to contest the suit. In his statement to the press, Councilman Arthur again framed the case as a matter of federal authorities forcing their will on matters of local governance, saying, “The Federal Government has abandoned its traditional position of recognizing the rights of the subdivisions of the sovereign States and has decided to work its will in a most autocratic and dictatorial manner.” He further accused the FPHA themselves of damaging the war effort, producing “resentment and lack of confidence in the short-sighted and incompetent men...during this tragic war,” and damaging the “peace and good order of Baltimore city...beyond calculation.”<sup>104</sup>

Northeastern Civic Groups’ attorneys and the city solicitor again joined forces to fight against and stall the condemnation proceedings. Solicitor Benson filed a motion with the court to deny the land use to the FPHA. Among the complaints listed were that the location of Herring

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<sup>103</sup> “Not a Permanent Answer to the Housing Question,” *Baltimore Sun*, Oct. 6, 1943.

<sup>104</sup> “U.S. Moves to get Negro Housing Site,” *Baltimore Sun*, Sep. 1, 1943.

Run did not “conform in location and design to local planning and tradition” in accordance with federal statute; that taking Herring Run through condemnation did not follow the new city ordinance requiring approval by the city council and the mayor; that officials feared even though the FPHA was now claiming they would erect only temporary housing, “the city believes that the Government intends to erect permanent housing on the land;” and finally, that the condemnation was illegal because compensation had not yet been deposited with the courts.<sup>105</sup> In an ironic twist for a segregated city, the citizen protesters filed motion on the basis that, “a Negro war housing project constructed on a site surrounded by an area wholly occupied by persons of the white race constitutes the establishment of a racially segregated area in violation of the Constitutions of the United States and the State of Maryland,” and further, “since the land will be used for homes for Negroes who are neither citizens nor residents of Maryland, the project also will exclude the petitioners.”<sup>106</sup> While exclusion of black people was a right defended by the courts, exclusion of these middle-class white men from black war-worker housing was, in their minds, indefensible.

Instead of moving forward with either the condemnations or the motions to dismiss, Judge William C. Coleman repeatedly postponed the hearings.<sup>107</sup> When the first postponement failed to result in an agreement between the parties, Coleman issued a rebuke to the FPHA that there had been “a good deal of fanning of air and wasting of time” by the federal government because they had not followed proper procedures for site approval in the very beginning. While he acknowledged the government’s rights to seize property under the War Powers Act, he stated that he hoped the agency “preferred to work something out” rather than proceeding “by force of sheer power.” “What good does it do to build houses if you are going to have disagreements and

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<sup>105</sup> “Housing Hearing Slated Sept. 23,” *Baltimore Sun*, Sep. 14, 1943.

<sup>106</sup> “Coleman Sees Housing Site Dispute Moves,” *Baltimore Sun*, Sep. 24, 1943.

<sup>107</sup> *Ibid.*; “Hearing on Site Postponed Again,” *Baltimore Sun*, Sep. 30, 1943.



uprisings?” he asked. His advice was to “attempt to satisfy the greatest number of people” — with the clear subtext that this referred only to the “greatest number” of white people.<sup>108</sup>

Following the second postponement, understanding that Coleman was not going to allow the condemnations to proceed, FPHA Commissioner Emmerich agreed to “confer personally” with representatives of the HABC and “discuss seriously all alternatives” to the Herring Run site.<sup>109</sup> Despite having insisted for months that housing for black war workers needed to be located near the defense industry in eastern Baltimore, at this point, the FPHA finally relented to local political pressure and agreed to consider new sites in other areas of the city. When no alternatives had been presented two weeks later, FPHA Regional Director Winston warned, “Unless [the HABC] can produce an alternate site in the immediate future,” the FPHA would push forward with condemnation proceedings to take not only Herring Run, but also a second nearby site for another black housing project.<sup>110</sup>

In response, city officials quickly cobbled together a plan. Instead of one large, 1,400-unit development at Herring Run, the HABC proposed four different sites with 200-600 units each. Rather than being in the eastern portion of the city near the defense plants, all four sites were located in the black areas of South and Southeastern Baltimore. In fact, two of them did not even fall within the city limits, but required Baltimore County approval instead.<sup>111</sup> All four of the locations had been suggested to the FPHA before, but were each rejected as “inadequate and inferior” to Herring Run.<sup>112</sup> Despite these issues, and weary from months of delays, the FPHA approved of the plan with the provision that one site, Cherry Hill, be built as a permanent black

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<sup>108</sup> “Hearing on Site Postponed Again,” *Baltimore Sun*, Sep. 30, 1943.

<sup>109</sup> “U.S. to Study Other Sites for Housing,” *Baltimore Sun*, Oct. 1, 1943.

<sup>110</sup> “FPHA May Push Its Suit on Housing Site,” *Baltimore Sun*, Oct. 10, 1943.

<sup>111</sup> “BHA Frames Negro Housing Site Problem,” *Baltimore Sun*, Oct. 13, 1943.

<sup>112</sup> “Herring Run Substitute Not Given to FPHA Yet,” *Afro-American*, Oct. 23, 1943.

housing development and transferred to the HABC for low-income housing after the war was over. Referring back to the mess of the past seven months, Commission Emmerich declared that there was now “complete agreement” by the FPHA, the HABC, the Mayor, the City of Baltimore, and Baltimore County. In sum, said Mayor McKeldin, “the problem is settled.”<sup>113</sup>

The largest of the replacement sites chosen was Cherry Hill. Like Herring Run, the location for Cherry Hill was in a generally unprofitable location and condition, on a peninsula on the Patapsco River. What the site did have, as white protesters were no doubt aware, was a B&O Railroad right-of-way cutting it off from the rest of the city. In describing the site, former police magistrate Charles H. Heintzeman called it “a damnable selection.” He explained that the area was polluted with railroad engines “puffing smoke and cinders on an upgrade to the manufacturing plants in Curtis Bay,” and the site was “bounded on the north by Spring Gardens with tugboats belching forth their cinders and soot.” Even worse than the smoke from trains and tugboats, though, the Cherry Hill site was located near the municipal incinerator. Heintzeman described, “On sultry days the odor and fumes from this plant are very objectionable and when the atmosphere is heavy and the wind is blowing from the southeast, it covers this location, making it unfit for any housing.”<sup>114</sup>

While not garnering white protest, the selection of Cherry Hill was not without complaint. City Councilwoman Ella Bailey, who represented the South Baltimore district in which Cherry Hill was situated, objected to the choice of her district for the new location. She said, “I heartily favor anything that may be done to improve the housing conditions of the Baltimore Negroes, but I am, on the other hand, unalterably opposed to any attempt to house in-

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<sup>113</sup> “FPHA Approves 4 Sites Recommended by HAB in Housing of Negroes,” *Baltimore Sun*, Oct. 26, 1943.

<sup>114</sup> “4 War Homes Sites Dubbed Undesirable,” *Afro-American*, Nov. 6, 1943.

migrant Negroes at Cherry Hill.”<sup>115</sup> Though class division would soon become a dividing line in arguments over where to place black public housing projects, in this case, it was the migrant status of black workers that caused objection. If the site was not to house Baltimoreans, Councilwoman Bailey insisted, it should be developed into a water-front park for the benefit of South Baltimore residents.<sup>116</sup> The Urban League of Baltimore also expressed reservations about Cherry Hill, primarily the limited ability to expand the area, which they feared would cause it to deteriorate into “another blighted area” as it became overwhelmed and overcrowded by the continued black housing shortage.<sup>117</sup> Even so, FPHA Commissioner Emmerich expressed hopes that Cherry Hill would become a “new permanent and well-rounded neighborhood for Negro families” in Baltimore.<sup>118</sup> Despite these objections, the selection of Cherry Hill passed without much fanfare.<sup>119</sup>

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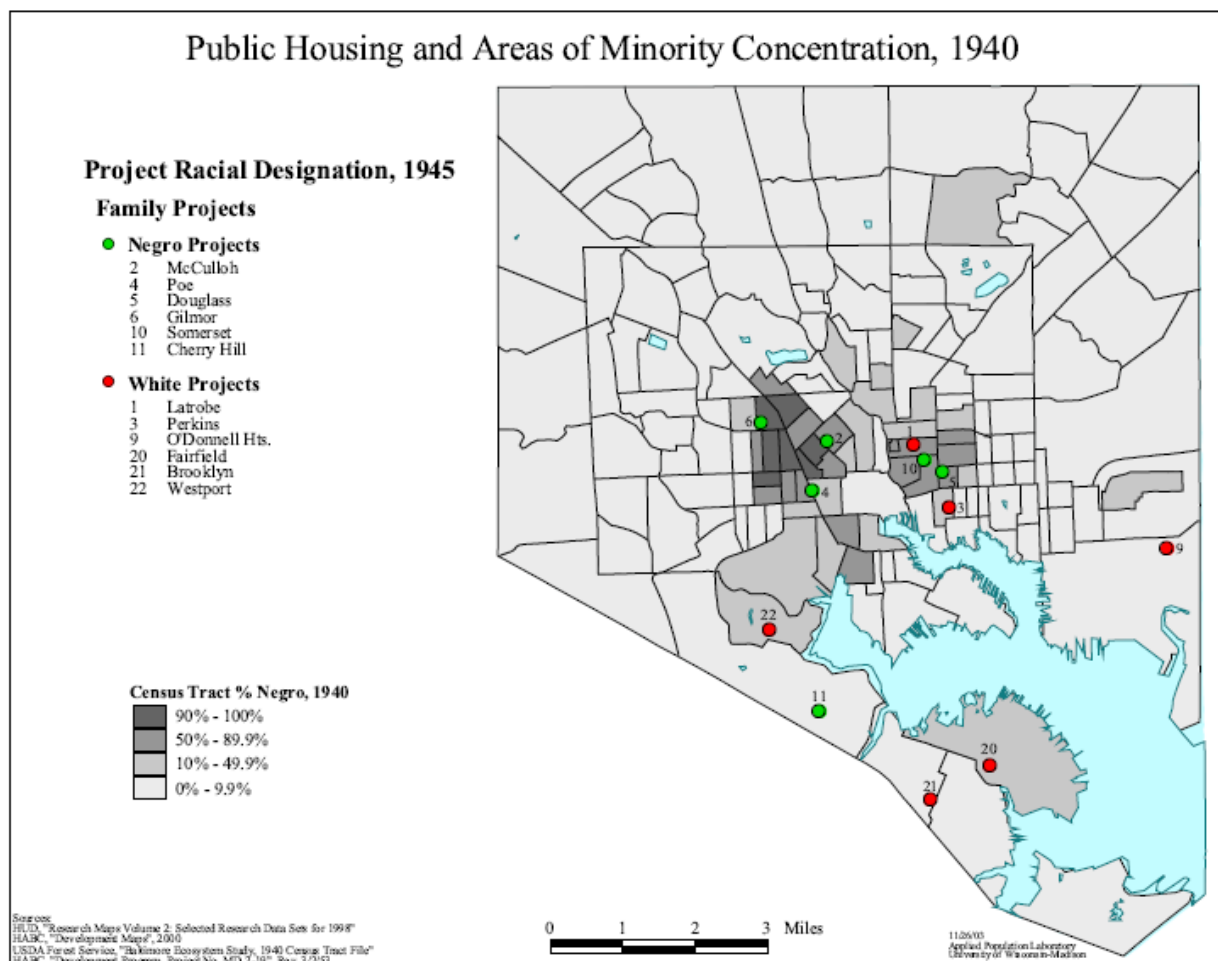
<sup>115</sup> “Negro Homes Site Draws Protests,” *Baltimore Sun*, Oct. 14, 1943. Protesters against Herring Run had used the same argument, that “colored people here are not in favor of bringing these invaders to Baltimore,” an argument which Northeast Civic Groups Attorney John Gontrum characterized as being put forth by the “better -- the old-fashioned -- colored people of Baltimore.” (“State Official, Congressman Protest Site,” *Afro-American*, July 31, 1943).

<sup>116</sup> “Negro Homes Site Draws Protests,” *Baltimore Sun*, Oct. 14, 1943.

<sup>117</sup> “Urban League Disapproves Housing Sites,” *Baltimore Sun* Oct. 25, 1943.

<sup>118</sup> “FPHA Approves 4 Sites Recommended by HAB in Housing,” *Baltimore Sun* Oct. 26, 1943.

<sup>119</sup> Several black civic groups did request the Cherry Hill development be limited to temporary housing to alleviate the concerns about the limitations for expansion, but these requests were generally ignored by federal officials and did not lead to widespread protest. “BHA Receiving Bids on New Housing Units” (Dec. 11, 1943), “Ask Abandonment of Permanent Housing” (Dec. 18, 1943), “NAACP Still Awaits BHA Reply on Cherry Hill Site” (Dec. 25, 1943), All *Afro-American*. The *Baltimore Sun* expressed support for the development, stating “the program will not solve the Negro housing problem, but it will bring a measure of much-needed relief.” “Progress Report on Negro Housing Projects,” *Baltimore Sun*, Dec. 4, 1943.



*Figure 2.1 Locations of Baltimore Public Housing Projects, 1940*<sup>120</sup>

Simultaneous to the approval of the sites, the FPHA dropped the condemnation suit for Herring Run. The other sites chosen were rife with problems as well. Urban League executive secretary J. Harvey Kerns criticized the choice of the Holabird Avenue site because of “a polluted stream” to the west, its “low and flat” geographical plain, and “that it is in a heavy industrial area with no nearby community facilities.” Likewise, the Turner Station site was of poor quality, which he described as “low land...infested with mosquitoes due to standing water

<sup>120</sup> Map, Public Housing and Areas of Minority Concentration, 1940, ACLU of Maryland, <https://www.aclu-md.org/en/cases/thompson-v-hud>.

on its fringes,” and “hemmed in by the municipal airport on one side and a large body of water on the other... two miles from the nearest shopping district.”<sup>121</sup> Nevertheless, plans continued unopposed and the HABC quickly acquired rights to the land and began construction.<sup>122</sup> The white working class of eastern Baltimore had successfully fended off the “invasion” of black residents, and city officials continued to follow the pattern of concentrating public housing projects in majority-black areas of Baltimore for the rest of the century, as later chapters discuss.

The argument over Herring Run was more than simple resistance to housing black residents near white neighborhoods — it was the opening salvo in an ongoing war over who public housing should serve, whose rights and priorities should be emphasized, and how much influence local government should have over projects funded by federal dollars. In this period, appointed civil servants in the Housing Authority of Baltimore generally aligned in their views with elected representatives and could thus join forces against “unwarranted intrusion” by the federal government into city planning decisions. In later years, with changes in HABC leadership, the divide shifted and deepened, and this coalition of Baltimore civil servants and city leaders dissolved at exactly that moment the federal government began insisting on stronger policy control over local decisions — an issue that the following chapters explore.

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<sup>121</sup> “4 War Homes Sites Dubbed Undesirable,” *Afro-American*, Nov. 6, 1943.

<sup>122</sup> “BHA Receiving Bids on New Housing Units,” *Afro-American*, Dec. 11, 1943.

### 3 CHAPTER TWO: DESEGREGATION IN THEORY

As World War II drew to a close, questions about the legality and ethics of segregation entered the white American public consciousness as never before. Before President Harry S. Truman desegregated the Armed Forces with Executive Order 9981 in 1948, black troops overseas and on the homefront used their position as defenders of American freedom to press for equal rights, a precursor to the Civil Rights Movement of the 1950s and 1960s now acknowledged by historians as part of a longer tradition of black political struggle.<sup>123</sup> In this same period, the wartime shortages that had slowed home building lifted and the Baltimore Housing Authority (HABC) began making plans to change its war worker stock back to low-income housing. By 1954, the HABC operated thirteen low-income housing projects along segregated lines — seven designated for white residents, and six for black.<sup>124</sup> As the city wrestled with questions of segregation following the 1954 *Brown v. Board* Supreme Court decision, the issues raised in desegregating public schools and public housing fell along nearly identical lines. Although schools had attracted more newspaper coverage leading up to *Brown*, when public housing became part of the civil rights agenda, white Baltimoreans raised similar concerns and authorities sought to put similar policies into place to eschew federal directives.

In *Brown in Baltimore: School Desegregation and the Limits of Liberalism*, Historian Howell S. Baum argued that the “freedom of choice” desegregation policy implemented by the Baltimore City School Board following *Brown v. Board* was an understandable extension of a

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<sup>123</sup> The term “The Long Civil Rights Movement” comes from Jacquelyn Dowd Hall’s article “The Long Civil Rights Movement and the Political Uses of the Past,” *Journal of American History* Vol 91 (4) March 2005: 1233-1263.

<sup>124</sup> Expert Report of Karl Taeuber, Series 3, Plaintiff Exhibits, Box 1, Exhibit 2, American Civil Liberties Union (ACLU) Collection, University of Baltimore Langsdale Library Special Collections, Baltimore, Maryland [Hereinafter ACLU], 102.

national emphasis on the tenets of liberalism. Baum's interpretation of liberal thought as expressed in the individual choice model of desegregation closely mirrors the desegregation of Baltimore's housing projects. Placing the two desegregation policies in the framework of liberalism offers additional context for understanding the broader paradigms of individualism and choice that directly influenced the effectiveness of Baltimore's housing desegregation policy. By applying Baum's framework of liberalism to the public housing desegregation policy and giving particular attention to the language of "choice," this chapter argues that the HABC not only created a policy that could speak to the language of desegregation without having to actually address the reality of segregation, but that it did so because of a focus not on the aggregate outcomes of the system of segregation, but instead on providing individual opportunity to choose otherwise. Because of their fundamental rooting in individualism and its entrancement by the chimera of "choice," the desegregation plans never had any real ability to reckon with enduring, systemic inequality in housing or in schools.

Despite having the nation's largest antebellum free black population, the city of Baltimore did not provide schools for black children until 1867, when the state's post-Reconstruction constitutional convention acquiesced to provide public schools for black students.<sup>125</sup> Despite a rapidly growing black student population, the city school system refused to replace or update the overcrowded and dilapidated buildings. Over the next few decades, crowding became so endemic that, from 1905-1920, most black children attended school only part-time, splitting the day in two shifts. The school system built ten new buildings for black students and handed down an additional twelve that were deemed no longer "suitable" for white students by 1933, enabling all students to attend classes full-time. Even so, overcrowding and

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<sup>125</sup> Howell S. Baum, *Brown in Baltimore: School Desegregation and the Limits of Liberalism* (Ithaca: Cornell University Press, 2010), 24-26.

poor conditions continued to plague Baltimore's black-designated schools. In the late 1930s, the Baltimore NAACP began concerted efforts to improve conditions in black schools while simultaneously filing legal suits to challenge segregation.<sup>126</sup>

While the topic of school desegregation had thus been circulating in white newspapers for years by the post-World War II era, the idea of desegregating public housing came as a surprise to those who relied on the *Baltimore Sun* for their news. The *Baltimore Afro-American*, in contrast, reported heavily on housing segregation challenges throughout the 1940s and into the 1950s. This coverage included a 1941 article about limited integration in Philadelphia housing projects, statements by First Lady Eleanor Roosevelt to the Washington Housing Association that she was "opposed to any new planning to set up any segregation on any grounds whatsoever since this is a barrier to teaching people to live side by side with one another as Americans," and the approval by the Boston city council of a resolution banning discrimination in public housing. In addition to coverage of successfully integrated public housing programs like those in Queens, New York, the *Afro-American* followed legal challenges to public housing segregation in Detroit; Newark; Atlantic City; Harrisburg, Pennsylvania; Toledo; Elizabeth, New Jersey; San Francisco; and Washington, DC.<sup>127</sup>

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<sup>126</sup> Baum, 33-39 and 51-64.

<sup>127</sup> "Indignation at Fever Heat over Discrimination," *Afro-American*, Mar. 15, 1941; "First Lady Hits Post-War Plan for Ghettos," *Afro-American*, Dec. 18, 1943; "News in Tabloid: Our Progress Report for the Past Week," *Afro-American*, Aug. 7, 1948; "Non-Segregated Project Big Success, Tenants Agree," *Afro-American*, April 24, 1948; "Housing Bias Suit Filed in Detroit," *Afro-American*, June 17, 1950; "Newark to Abolish JC Housing Policy," *Afro-American*, Aug. 26, 1950; "Housing JC Knell Struck," *Afro-American*, Feb. 24, 1951; "Housing Segregation in Pa. Faces Courts," *Afro-American*, July 5, 1952; "Judge Delays Ruling on Housing, But Warns Authority to Integrate," *Afro-American*, Apr. 18, 1953.; "Toledo Favors Segregation," *Afro-American*, May 2, 1953; "Housing Commissioners on Spot: 13 Families Sue to Erase Housing Discrimination," *Afro-American*, May 30, 1953; Samuel Haynes, "Segregation Must End Now, Court Rules," *Afro-American*, Feb. 6, 1954; "Approved by California Tribunal: U.S. Supreme Court Urged to Approve Mixed Housing Ruling," *Afro-American*, Mar. 20, 1954; "Disgrace of the Capital: Washington's Slums and Racial Segregation Shame this Nation," *Afro-American*, Dec. 6, 1952; "D.C. Housing Body Boots Segregation," *Afro-American*, Apr. 4, 1953; "Public Housing to Open All Units Soon," *Afro-American*, May 29, 1954.



In contrast, for those who read only the mainstream *Baltimore Sun*, coverage of public housing segregation was extremely limited. In December 1949, the *Sun* recounted that the federal Public Housing Administration refused a loan to the city of Charlotte, North Carolina to fund the creation of a black-only housing project. The reason for the refusal was not the funding of a segregated project, but that the Charlotte plan did not include a “separate but equal” whites-only project as well and thus constituted discrimination against whites. According to the account, “Federal officials insisted that if the Charlotte Housing Authority wanted any Federal money, it would have to treat whites and Negroes equally.”<sup>128</sup> Even in this instance, where the event was detailed in both papers, the nature of the coverage distinctly diverged. In the *Afro-American*’s article, the focus was on the announcement by the Charlotte Housing Authority that their allocated funds would create integrated housing projects, a distinction left out by the *Sun*.<sup>129</sup> For the *Sun*’s audience, it was automatically assumed that local distribution of federal housing funds would be “separate but equal”; in contrast, the *Afro-American* chose to highlight an instance of local decision-making leading to integrated housing. The next instance of coverage related to public housing segregation in the *Sun* would not come until five years later, when the question of desegregation was at the forefront of the national consciousness.

In the summer of 1954, the Commissioners of the Housing Authority of Baltimore City (HABC) received a memo from their General Council, Eugene M. Feinblatt, that dramatically altered their approach to public housing.<sup>130</sup> Just months before, the U.S. Supreme Court struck down segregation in public schools in the *Brown v. Board of Education* decision, but the memo centered on an even more relevant court case from the previous year, *Banks v. San Francisco*

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<sup>128</sup> “Race Cub Bars Charlotte Loan,” *Baltimore Sun*, Dec. 24, 1949.

<sup>129</sup> “New Chicago PHA Units Will Be Opened to All,” *Afro-American*, Dec. 24, 1949.

<sup>130</sup> The Housing Authority of Baltimore City went through several name changes, but this is the same agency as the Baltimore Housing Authority of the previous chapter.

*Housing Authority*, which essentially banned discrimination in public housing.<sup>131</sup> Although the ruling did not directly affect them, the HABC decided to reexamine their own policy of segregation in the city's housing projects in light of the legal precedent set by *Banks*. As Feinblatt made clear in his memo, "Even if it be assumed that segregated projects are in and of themselves legal, the present policy applicable to the admission and assignment...is certainly discriminatory and illegal."<sup>132</sup>

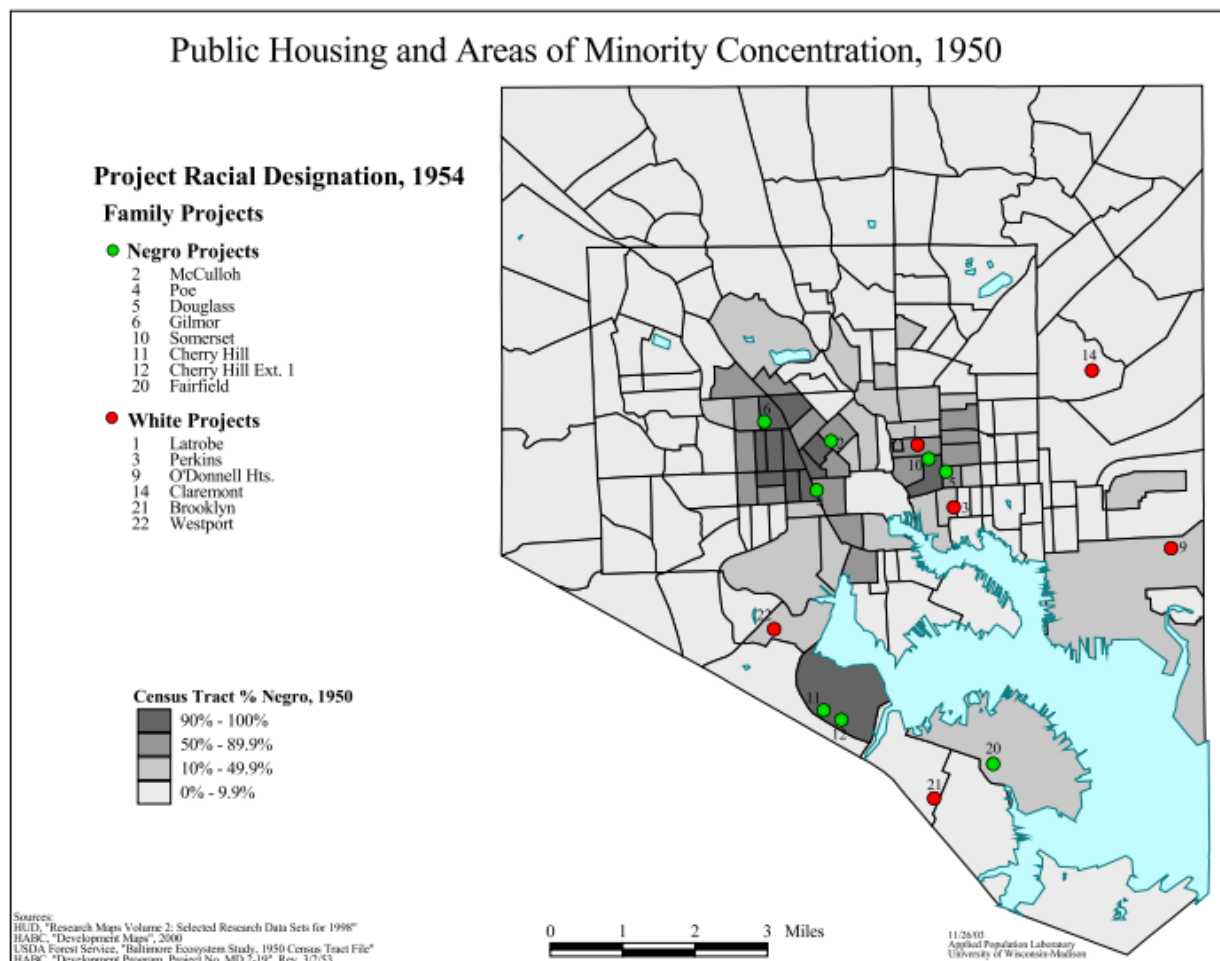
The HABC immediately began discussions to craft a new policy. In a staff meeting, Director of Management Ellis Ash noted that "the national trend" was moving toward desegregation, and that, as an agency "subsist[ing] to a great extent on federal assistance," the HABC would eventually be forced to do the same. In light of that reality, Ash recommended the HABC "take the action without being forced to do it," so they could better control the development of a new policy and manage its implementation.<sup>133</sup> Through this anticipatory strategy, the HABC hoped to be able to decide for themselves what desegregation would look like in Baltimore's public housing, rather than being forced into a vision designated by the federal government or the court system.

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<sup>131</sup> *Banks et al. v. Housing Authority of San Francisco et al.*, 120 Cal A 2d 1 (1953).

<sup>132</sup> Memorandum Eugene M. Feinblatt to Commissioners of the Housing Authority of Baltimore City, Minutes, Commission of the Housing Authority of Baltimore 1942-1982, BRG48-13, Box 5, Folder 1, Baltimore City Archives, Baltimore, Maryland [Hereinafter BCA].

<sup>133</sup> Meeting of Staff on Visiting Community Agencies, Minutes from Nov. 5, 1954, BRG48-13, Box 5, Folder 3, BCA.



*Figure 3.1 Locations of Baltimore Public Housing Projects, 1950*<sup>134</sup>

In discussing the new desegregation policy, HABC officials held starkly divided opinions. Despite raising initial concerns, General Counsel Eugene Feinblatt stood on the side of maintaining segregated housing projects. In his memo following the *Banks* decision, Feinblatt accused the California court of overstepping its boundaries and exercising judicial activism. Feinblatt further disagreed with assertions that the Supreme Court's refusal to hear the *Banks* case signified an approval of the ruling, claiming that "despite its general acceptance, this view is

<sup>134</sup> Map, Public Housing and Areas of Minority Concentration, 1950, ACLU of Maryland, <https://www.aclu-md.org/en/cases/thompson-v-hud>.

not justified by either law or precedent.” It should come as no surprise, then, that Feinblatt also did not believe the *Brown* decision applied to the realm of housing accommodations either. Instead, he claimed that there was “no rule of law” that prohibited public housing segregation, and that there would be none, “unless it can be found as a factual matter” that segregation was “so detrimental to the occupants of public housing” as to constitute a violation of the equal protection clause of the Constitution. This distinction of “so detrimental” was an undefined bar, but indicated an implicit acceptance of some level of harm caused by segregated housing, but not one that rose to the level of psychological damage done by school segregation. In sum, Feinblatt believed that the ruling of “separate but equal” from *Plessy v. Ferguson* remained generally valid except in the specific places laid out in the *Brown* decision.<sup>135</sup>

While projecting confidence in his interpretation of legal precedent, Feinblatt also noted that, despite his objections, the general trend of the Supreme Court would likely be to continue limiting the legality of segregation.<sup>136</sup> As such, he came to the conclusion that maintaining segregation in public housing — no matter its legality, in his view — would become increasingly difficult. As in the discussions surrounding school segregation, maintaining substantially equal offerings to satisfy the legal requirements of *Plessy* would prove prohibitively expensive.<sup>137</sup> Like

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<sup>135</sup> Feinblatt claimed that “the rule laid down by the *Plessy* case has never been specifically overruled. All subsequent litigation has been concerned with the question of whether separate facilities were in fact equal. Even the recent *Brown* case, which invalidates segregation in public schools, does not overrule the *Plessy* doctrine as rule of law; on the contrary, the *Brown* case merely holds that in the field of public education separate facilities are, as a factual matter, inherently unequal, and therefore do not afford Negroes ‘Equal Protection of the Laws.’ (Memorandum Eugene M. Feinblatt to Commissioners of the Housing Authority of Baltimore City, BRG48-13, Box 5, Folder 1, BCA.)

<sup>136</sup> *Ibid.*

<sup>137</sup> In the 1940s, NAACP attorneys Thurgood Marshall and Charles Hamilton Houston planned a nation-wide campaign to fight school segregation by forcing school boards to bring black school offerings in line with those in white schools. As such changes were generally too expensive for school systems to implement, the boards would thus be forced to allow black students into white schools with specialized or advanced programs. In Baltimore, a 1952 lawsuit forced the school system to allow black high school students to enroll in the Engineering “A” Course at Polytechnic High School following much debate about whether implementation of a similar program in the black high school was practicable and financially feasible, and whether, if implemented, such a program in Dunbar High School would actually be equal enough to satisfy the legal requirement. See Baum, 51-64.

the housing authority commissioners, Feinblatt recommended that the HABC, “as a practical matter,” begin “to embark...on a policy of limited integration.” In doing this, he suggested that the commission make more housing units available to black residents, and alter the admission policy, “so that applicants will be considered solely on the basis of their statutory priorities and preferences, without regard to race or color.” While he warned, “In the absence of a change in political climate,” the HABC “must be prepared to accept an ever increasing measure of integration,” Feinblatt hoped that, “If our efforts are genuine and we constructively experiment with integration, there is every reason to believe that we will be insulated from adverse court action.”<sup>138</sup>

In the midst of this debate among Housing Authority commissioners, the Baltimore Public School Board was contending with many of the same issues. Although the School Board had voted in 1952 to allow black male students to enroll in a specialized engineering course at a white high school, by 1954, the board faced a lawsuit regarding high school offerings for black female students. Despite claims that white and black schools were generally equal, black schools were severely overcrowded. Booker T. Washington Junior High, for example, had 2,500 pupils in a building designated for only 1,200. Both that school and the Dunbar Senior-Junior High had returned to educating students using “double shifts” of school days lasting just four hours — all while seats sat vacant in white schools.<sup>139</sup>

School Superintendent John Fischer claimed there had never been “qualitative distinctions...in providing facilities for white and Negro pupils,” while simultaneously blaming the overcrowded, dilapidated condition of black schools on the neighborhoods where they were

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<sup>138</sup> Memorandum Eugene M. Feinblatt to Commissioners of the Housing Authority of Baltimore City, BRG48-13, Box 5, Folder 1, BCA.

<sup>139</sup> E.M. David, “Blurring the Color Line,” *The Urban Review*, 26 no. 4, December 1994: 246; Baum, 44-45.

situated.<sup>140</sup> Fischer himself was an American boot-strap success story. He taught science in Baltimore's public schools while earning his bachelor's degree through night classes at Johns Hopkins, and later earned his master's degree and doctorate while working as Deputy Superintendent. He believed that "individual initiative" was the key to success, telling a *Baltimore Evening Sun* reporter that "government should be as decentralized as possible with as high a degree of local autonomy as can be achieved."<sup>141</sup> Fischer likewise claimed to be led by the "principles of the Founding Fathers" — what he determined to be an emphasis on classical liberalism, or what would today be generally termed libertarianism. In the discussion of school desegregation, Fischer would later write, "We believe it wrong to manipulate people to create a segregated situation. We believe it equally wrong to manipulate people to create an integrated situation."<sup>142</sup> Seemingly many of his white contemporaries in Baltimore's housing leadership shared his beliefs.

After studying the question of housing desegregation, the appointed HABC staff committee issued a report of their own. First, they soundly rejected a "separate but equal" proposal to pair each white housing project with a black project such that "substantial equality could be achieved." They called the proposal "futile," expecting that a court case directly related to housing "might well come along within the next couple of years."<sup>143</sup> Moreover, it was the likelihood of a court case against the HABC that the committee, and the authority as a whole, most wished to avoid. They feared that if forced to integrate by court decision, "the pressure groups...will continue to breathe down our necks to make sure that we do not attempt to evade

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<sup>140</sup> John H. Fischer, "Preliminary Statement to the Board of School Commissioners by the Superintendent on The Elimination of Racial Segregation in the Baltimore Public Schools," May 20, 1954, quoted in Baum, 67.

<sup>141</sup> Eleanor Johnson, "Fischer Bases School Policies on Early U.S. Principles," *Evening Sun*, March 5, 1953; Baum, 67.

<sup>142</sup> John H. Fischer, "The New Task of Desegregation," *Nation's Schools* 56 (Sept. 1955), 43-48.

<sup>143</sup> Ibid; Report on Racial Occupancy Policies of the Housing Authority of Baltimore City by Staff Committee, June 24, 1954, BRG48-13, Box 5, Folder 1, BCA.

the effect of the decision,” noting “this lack of freedom in carrying out an enforced integration policy could lead to trouble.”<sup>144</sup> By forging and implementing their own policy ahead of any court orders, the commissioners hoped the HABC might be subject to less scrutiny and oversight of their progress.

In deciding the appropriate way to proceed in desegregating public housing, the authority’s committee split between those who wanted to wait until legally forced, and those who wished to take immediate steps toward desegregation. One member in favor of waiting until legally compelled worried that to do otherwise would be taken as the authority “using its powers as a participant in the crusade for integration,” and an attempt “to leap too far ahead of the normal line of growth” for black areas of the city. He claimed to fear such actions “would retard, rather than advance, eventual integration,” due to the backlash it would cause. Even still, the member conceded, “there is no logical reason for discrimination or segregation of the Negro from the community other than by individual or collective prejudice.”<sup>145</sup>

Even with reservations such as these, the majority of the staff committee favored immediate desegregation. One spoke against accommodationism and gradualism, writing, “The entire history of race relations in this country is filled with instances where the traditional argument for either the ‘status quo,’ or gradualism as the next desirable alternative, develops its case on the existence of fears and prejudices in the community.” Furthermore, their report noted, taking action in advance of a lawsuit “would avoid the embarrassment” of defending continued segregation “when it appears that no real defense is possible.” In their discussion of the matter, HABC officials came back several times to the need to follow a path that would “win us the

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<sup>144</sup> Report on Racial Occupancy Policies of the Housing Authority of Baltimore City by Staff Committee, June 24, 1954, BRG48-13, Box 5, Folder 1, BCA.

<sup>145</sup> Ibid.

maximum of friends and supporters.” Although they differed on their preferred methods of implementing desegregation, the commissioners expressed that they themselves generally favored an end of racial prejudice within the public housing system.<sup>146</sup>

Before the HABC came to a decision, the school board announced its new policy. The school had previously operated under a system of “open enrollment” rather than districting, meaning that students could apply for enrollment in any school assigned to their race, regardless of its proximity to their home. On June 10, 1954, the school board announced a small but important change: “All the standards and criteria which are now in force with respect to the admission of pupils to schools, grades, or curricula shall continue in force except that the race of the pupil shall not be a consideration.” In order to ensure that “no child shall be required to attend any particular school,” the board continued its rejection of districting, with the important exception that if a school was determined to be overcrowded, a district line could be drawn to close off open enrollment for that school by those who lived beyond the line.<sup>147</sup> As historian Howell Baum described, “Officials construed students’ freedom of choice, or individual liberty, in negative terms. They had in mind freedom from external restraint, rather than freedom to get or achieve anything in particular.”<sup>148</sup> This school desegregation plan was unanimously adopted by the school commissioners on June 25, 1954.<sup>149</sup>

The desegregation plan adopted by Housing Authority commissioners was strikingly similar to that of the school board, in that it kept all the same requirements with the sole change

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<sup>146</sup> Ibid.

<sup>147</sup> Minutes of the Board of School Commissioners, June 10, 1954, BRG31-1-1, Box 7, Folder 4, BCA, 114-117; David, “Blurring the Color Line,” 244.

<sup>148</sup> Baum, 73.

<sup>149</sup> Minutes of the Board of School Commissioners, June 10, 1954, BRG31-1-1, Box 7, Folder 4, BCA, 114-117. By this time the School Board included its first black board member, who joined a board which included those in seats designated for one Jewish member, one Catholic, one University of Maryland representative, one from Johns Hopkins University, and one “community” member described as “a resident of a non-elite neighborhood.” Baum, 68.



of “eliminating the factor of race” in admission decisions.<sup>150</sup> In a press release announcing their decision, HABC officials wrote:

The attention of the Commission has been directed to an examination of its racial occupancy policies by reason of the significant events of the past few months, both locally and nationally, establishing a clear trend toward the abandonment of policies sanctioning segregation. The Commission recognizes that this trend affects the Authority’s own policies.

Furthermore, an examination of such legal opinion as is available results in the conclusion that the existing policies would be extremely difficult to administer to satisfy legal requirements and still be workable, acceptable, and practical.

Accordingly, the Authority is proceeding to revise its admission policies by eliminating the factor of race in the selection of eligible tenants, consistent with the present admission procedures.

The staff is directed to develop the necessary administrative changes and arrangements towards this end.<sup>151</sup>

It is telling that in this statement the authority failed to condemn the practice of segregation, instead distancing itself from the issue by pointing to local and national “trends.” Though a small difference, this is an important way in which the HABC shifted responsibility, and thus potential blame, for its actions. Simultaneously, the statement shifted focus to the authority’s inability to effectively meet the increasingly burdensome requirements of non-discrimination within a segregated system, giving another discursive slip to its own agency.

While the intentions of the HABC commissioners were important, most housing authority employees were never privy to the conversations actually crafting the new policy. Their introduction to the change came from HABC Executive Director Oliver C. Winston, former FPHA Regional Director during the Herring Run debacle, who addressed an assembly of employees on June 30, 1954.<sup>152</sup> He began by reading the official press release announcing the

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<sup>150</sup> Background Notes on Desegregation Policy for Use in Planning and Executing Training Program to be Conducted as Part of Applying Policy, BRG48-13, Box 5, Folder 1, BCA.

<sup>151</sup> Oliver C. Winston, Speech entitled Desegregation Policy: An Address to All Employees of the Housing Authority of Baltimore City, June 30, 1954, Series 3, Plaintiff Exhibits, Box 5, Exhibit 137, ACLU.

<sup>152</sup> Winston had been FPHA Regional Director during the events of Herring Run in the previous chapter.

new desegregation policy. Winston could have followed the commissioners' lead and focused on the difficulties of the changing legal structures of segregation, but instead, much of his speech extolled the virtues of the decision to desegregate the projects. Like the press release, Winston pointed to the national trend toward "eliminating discrimination and segregation practices in all areas of human activity," as well as the "unmistakable trend of legal opinion" that segregation was unconstitutional.<sup>153</sup> Unlike the release, though, Winston placed the responsibility to uphold the desegregation decision onto agency employees. He told the group, "The policy is not just the Commission's policy, it is in every sense of the word *our* policy. I want you to get in the habit of thinking about it that way."<sup>154</sup> This rhetorical emphasis is important, as it collapsed the distance between the HABC employees and commissioners, framing the policy as something the entire staff was embracing rather than a decree from above. Though the official press release sought to limit the assumed agency of the HABC, Winston emphasized to the employees that it was not just a national trend toward desegregation driving the change, but also a moral responsibility to end discrimination.

Winston also directly addressed those employees who would wish to maintain segregation in the housing projects. Unlike the residents of public housing, for whom the right to individual choice was of tantamount importance, agency employees were required to comply with the desegregation policy regardless of their personal feelings on the matter. Winston warned that the authority would not allow employees "to express contrary personal opinions...while engaged in the performance of their official duties." Employees were not allowed to make statements such as, "I agree the decision is bad, but what can I do about it?" Winston explained, because such statements would decrease the new policy's effectiveness. Finally, he reminded

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<sup>153</sup> Winston, Desegregation Policy, 2-3.

<sup>154</sup> Ibid., 6. Emphasis in original.

those employees who felt “prejudices...so strong that he cannot perform his job” within these parameters that they would be subject to dismissal under the employee code of conduct. Here again, Winston placed responsibility for ending racial discrimination on the shoulders of each individual employee.<sup>155</sup>

Despite Winston’s strong language in his speech to the staff, behind closed doors, he made it clear that he felt the need to be careful in how the HABC presented the new policy to the public. Having learned from his time as FPHA Regional Director during the controversy surrounding Herring Run, Winston recognized the importance of presenting the decision as a collaborative effort, not a mandate handed down from an overzealous bureaucrat. In a meeting of HABC officials on November 5, he told the commissioners that any interpretation of the desegregation policy given to community partners “must be presented in a manner which could not be construed by any person as being a ‘crusade’ entered into by the Housing Authority.” He went on to say, “At no time should we give the appearance of ‘bowling something through on the community.’”<sup>156</sup> Even though he had encouraged lower-level staff to take ownership of the desegregation policy and overtly threatened employees with dismissal for expressing disagreement, for dealing with community groups, Winston encouraged language that once again downplayed the HABC’s agency. By shifting culpability away from the housing authority, commissioners positioned themselves to play both sides—with any community groups who disapproved of the changes, the HABC could claim to be a similarly aggrieved party acted upon by broader societal change, while with more progressive groups who were in favor of desegregation, the HABC could claim to be leaders in housing desegregation.

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<sup>155</sup> Ibid., 9-10.

<sup>156</sup> Meeting of Staff on Visiting Community Agencies, Minutes from Nov. 5, 1954, BRG48-13, Box 5, Folder 3, BCA.

As shown, the new policy was presented differently to the private audience of the HABC commissioners and the public-facing group of employees. The policy was presented in a third way when discussed with the officials of other municipal housing authorities at the Human Rights Day Institute in St. Louis, Missouri in December 1955.<sup>157</sup> At the Institute, HABC Deputy Director Ellis Ash gave a speech titled “The Baltimore Story,” a tale meant to inspire and encourage other housing authorities facing similar challenges as desegregation loomed large on the national stage. While it is necessary to read between the lines in Ash’s speech, there are moments where his message was explicitly clear—that desegregation was only going to go as far as the “individual choices” by housing residents forced it to go.

Likewise, Baltimore School Superintendent John Fischer recognized that the “freedom of choice” policy would not lead to a true end to school segregation. Following the Baltimore School Board’s decision, Fischer told teachers, “Will our school system be reorganized to integrate all schools? The answer to that question is ‘No.’...No effort will be made deliberately to transfer children of either race for the purpose of ‘mixing’ schools. We have had the last of placing children anywhere for racial reasons.”<sup>158</sup> Fischer would return to this point again and again. In 1959, he said, “Negroes have been free to remain in their own schools or, if they chose, to transfer to a white school. The one thing we have resisted is to manipulate people. We are just opposed to pushing people around. The school system has never adopted any plan to achieve a good balance. We feel there is no merit in having a particular racial composition.”<sup>159</sup> A few years later Fischer returned to this theme of integration as manipulation, calling school integration

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<sup>157</sup> Ellis Ash, Speech entitled *The Baltimore Story: An Account of the Experience of the Housing Authority of Baltimore City in Developing and Applying a Desegregation Policy to its Low-Rent Public Housing Program*, Dec. 9, 1955, Series 3, Plaintiff Exhibits, Box 5, Exhibit 139, ACLU.

<sup>158</sup> John H. Fischer, “Report on Our Duty and Our Opportunity,” in George B. Brain, ed., *Desegregation Policies and Procedures, 1954-1963* (Baltimore: Baltimore City Department of Education, 1963), 19.

<sup>159</sup> “Fischer reviews Baltimore desegregation course he directed.” *Southern School News* 6 no. 1 (July 1959), 5.

“social engineering” and claiming that “even the most desirable end does not justify manipulating people to create a structure pleasing to some master planner.”<sup>160</sup> As Baum explained, “Explicitly, [the school board] would not discriminate against black children; implicitly, neither would it act on their behalf.”<sup>161</sup>

As in Baltimore’s schools, the bulk of the responsibility for housing integration was thus placed upon the black residents of the projects—or, as Ash described it, “every applicant can now express a preference for any project.” In this way, integration was up to black housing applicants, not the HABC. This was a conscious choice made by the commissioners, and it was working exactly as planned, with several projects still 100 percent white-occupied. As Ash claimed in the aforementioned speech, “At this stage, a number of projects have had no applicants from members of the racial group formerly excluded from consideration.” The continued de facto segregation in the HABC project system was the responsibility, and thus the fault, of black residents, who, in Ash’s telling, simply did not want to integrate the O’Donnell Heights, Claremont Homes, and Brooklyn Homes projects. Ash emphasized this point clearly to the gathered participants at the institute, telling them proudly, “The Baltimore Authority has not applied its policy on the premise that integration must be achieved throughout the program, if that means that families are required to either live in particular projects or sacrifice their opportunity for housing.” Ultimately, the HABC was willing to remove the legal mandate that segregated housing projects, but would not take any meaningful steps toward their integration.<sup>162</sup>

The promise by housing commissioners that “We are not going to require anyone to live

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<sup>160</sup> John H. Fischer statement to the U.S. Commission on Civil Rights, *Fourth Annual Education Conference on Problems of Segregation and Desegregation of Public Schools* (Washington, DC: U.S. Commission on Civil Rights, 1962), 19.

<sup>161</sup> Howell S. Baum, “How the 1968 Riots Stopped School Desegregation in Baltimore,” in *Baltimore ‘68: Riots and Rebirth in an American City*, eds. Jessica I. Elfenbein, Thomas L. Hollowak, and Elizabeth M. Nix (Philadelphia, PA: Temple University Press, 2011), 155.

<sup>162</sup> Ash, *The Baltimore Story*, 12.

anywhere against their wishes,” cut both ways.<sup>163</sup> It meant that black residents would not be forced into segregated housing, but also that white residents would not be compelled to live alongside black neighbors. It was the black applicants who were making the decision to move in next door to potentially unwelcoming whites, not the city officials who were placing them there.

Ash clearly knew that this system of voluntary housing project choice was not the way to achieve integration, ending his speech saying he did not wish to give the false impression, “that all projects operated by the Baltimore Authority are now integrated. Frankly, I don’t know when that will occur.”<sup>164</sup> From their first conversation on desegregating the projects, HABC commissioners had shown that integration was not the end goal of the policy change. As their report stated in 1954, “If we wait for a court decision we will not only have no control over the types of families we select to begin the integration process, but probably not enough control over where we place them within a project either.”<sup>165</sup> Ash’s speech puts those conversations in a clearer relief: it was not just a fear of government intervention in the speed of desegregation that made commissioners nervous, but also that government oversight of the process may force actual integration, which could have devastating political consequences. Others had recognized the limitations of the “choice” system, as when Winston told HABC employees that “there is a good probability that all our projects will not attract persons of different races than the present pattern.”<sup>166</sup> HABC officials recognized the limitations of the individual choice system, yet embraced it despite — and potentially because of — those limits.

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<sup>163</sup> Meeting of Staff on Visiting Community Agencies, Minutes from Nov. 5, 1954, BRG48-13, Box 5, Folder 3, BCA.

<sup>164</sup> Ash, *The Baltimore Story*, 11.

<sup>165</sup> Report on Racial Occupancy Policies of the HABC, BRG48-13, Box 5, Folder 1, BCA, 25.

<sup>166</sup> Winston, *Desegregation Policy*, 8-9.

Director Ash could not plead ignorance of this likely outcome. In July 1954, Director of Housing Management Harry B. Weiss warned Ash, “It should be recognized that segregation is not necessarily forced; it may be voluntary, since persons may prefer to live among others of similar cultural background. Conversely, integration is not necessarily voluntary, since the denial of free choice may be required to insure against a continuance or a resurgence of a segregated pattern.”<sup>167</sup> Perversely, Ash called back to this same language in “The Baltimore Story,” telling the gathered officials that it was no surprise that Baltimore’s projects remained partially segregated since the city was “still a community with essentially segregated living, and institutional resources such as shopping, entertainment, and religious facilities [for black people] are not available in the neighborhoods adjacent to a number of the projects.”<sup>168</sup> What Weiss had raised as a point of concern about a structural flaw in the policy, Ash used as a justification for the authority’s limited actions toward integration.

With so little reporting on housing desegregation efforts by the *Sun* leading up to the HABC announcement, one can only imagine it must have come as a surprise to the majority of the *Sun*’s white readership. In contrast, for *Baltimore Afro-American* readers, it likely seemed a long time coming. Just a few months earlier, the *Afro-American* reported on the very California court case that spurred the HABC to action, *Banks v. San Francisco*. Savvy readers of the paper might have remembered the *Afro-American* reporting earlier that year that “The Superior Court ordered the housing authority [of San Francisco] to admit all qualified applicants to any and all available low-rent public housing units, subject only to the rules and regulations which applied to

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<sup>167</sup> Memorandum Harry Weiss to Ellis Ash, Observations on the Desegregation Policy in the Tenancy and Relocation Families, July 27, 1954, BRG48-13, Box 5, Folder 3, BCA.

<sup>168</sup> Ash, The Baltimore Story, 12.

all applicants and without regard to race or color.”<sup>169</sup> Running almost twice the length of the *Sun* piece, the *Afro-American*’s report on the HABC’s decision quoted the press release in its entirety. In addition, it gave background on the projects currently under operation, the construction of two new projects in progress, and listed the members of the HABC board who made the decision. Where the *Sun* echoed the language of the HABC press release, the *Afro-American* made small but important changes. Even the very headlines run by the two newspapers differed in how they viewed the change: while the *Sun* reported that “Segregation is Ruled Out,” the *Afro-American* more optimistically declared “Housing Integrated in Baltimore City.”<sup>170</sup> Unfortunately, as discussed, the *Sun*’s headline was closer to the mark in the end. For the *Afro-American*, though, its coverage of the issue was not done with this piece. The following week, the paper reported on Oliver Winston’s address to all the HABC employees, the text of which was discussed earlier in this chapter. In addition to an editorial calling Winston’s address a “temperate, reasoned, statesmanlike document,” the paper dedicated most of a page to reprinting the address in its entirety.<sup>171</sup>

Before the HABC decided to desegregate its projects, the *Sun* remained either unaware of or uninterested in the housing segregation policies of other cities. This is in sharp contrast with the *Afro-American*. After the decision, however, the *Sun* ran a few articles about other cities, many of them related to the *Brown v. Board* decision and its aftermath. For instance, a 1956 article about an Alabama voter initiative detailed plans in that state to maintain segregation in the face of the Supreme Court ruling.<sup>172</sup> The *Sun* article opened, “Segregation-conscious Alabama

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<sup>169</sup> “Approved by California Tribunal: U.S. Supreme Court Urged to Approve Mixed Housing Ruling, *Afro-American*, Mar. 20, 1954.

<sup>170</sup> “Segregation is Ruled Out,” *Baltimore Sun*, June 27, 1954; “Housing Integrated in Baltimore City,” *Afro-American*, July 3, 1954.

<sup>171</sup> “Oliver Winston on New Housing Policy,” *Afro-American*, July 10, 1954; “Full Text of Winston’s Historic Housing Address,” *Afro-American*, July 10, 1954.

<sup>172</sup> “Alabama Vote on Race Issue is Due Today,” *Baltimore Sun*, Aug. 28, 1956.



voters will decide tomorrow on two measures designed to prevent race-mixing in the schools and public recreational and housing facilities.” The article carefully walked the line of detailing how the proposed plan would enable Alabama officials to maintain segregation in schools and public facilities while taking the segregation laws off the books, yet not explicitly suggesting that Baltimore lawmakers do the same. Combining the extremely value-laden term “race-mixing” with the tacit endorsement of such a plan, the *Sun* was able to take the side of segregation without directly saying so.

Other instances of the *Sun*’s failure to denounce clearly racist policies as anything of the sort include a 1957 Associated Press article detailing the ludicrous plan by a Georgia lawmaker to send black families to New England and the Midwest in hopes that forcing white residents in those regions to live next to black families would increase their racism and thus garner support for continuing segregation.<sup>173</sup> It is not clear whether the original article by the AP was intended to be tongue-in-cheek, poking fun at such a ridiculous plan, or slyly supporting the proposal as the *Sun* did in the previously discussed article. Either way, the fact that the *Sun* editors chose to run the piece, combined with other racial sentiments expressed in the paper, suggests that the *Sun* did to some extent support those who were pushing back against integration.

Another AP article run by the *Sun* is a 1958 piece about the workings of the public housing desegregation plan undertaken by the New York City housing authority. This article decried the failure of desegregation in that city’s public housing, saying, “A policy to prevent discrimination against Negroes in city housing has resulted in whites moving out, thereby defeating its purpose of integration.”<sup>174</sup> It went on to describe a survey report by the Citizens Housing and Planning Council of New York, Inc., which suggested a policy of affirmative action

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<sup>173</sup> “Plan to Resettle Negroes is Told,” *Baltimore Sun*, Aug. 25, 1957.

<sup>174</sup> “N.Y. Housing Race-Policy Shift Asked,” *Baltimore Sun*, June 9, 1958.

should be adopted over the current “color-blind” plan. The report also suggested the NYC authority “issue a firm and unequivocal statement as to its determination to develop and maintain integration,” a far cry from the HABC method of ending blatant discrimination but going no further. The *Sun* itself recognized that the HABC decision had not led to integration, as when Edward C. Burks reported, “Segregation regulations were dropped several years ago, but in practice there has been little intermingling of the races in the assigning of apartment space.”<sup>175</sup> Despite this acknowledgment, when the HABC was faced with potential interference by the federal Department of Housing and Urban Development just a few years later, the *Sun* dramatically changed its tune, declaring, “As for our eighteen public housing projects, integration prevails in fifteen of them, there being only three which are all white – and these only because there have been no Negro applicants.”<sup>176</sup>

While the *Sun* otherwise avoided discussion of desegregation policies across the country with the aforementioned exceptions, the *Afro-American* continued its regular reporting of legal challenges, successes, and failures in public housing desegregation throughout the 1950s. In addition to single-article reporting on integration efforts in Chester, Pennsylvania; St. Louis; and Hartford, Connecticut, the *Afro-American* followed debates in several other cities through multiple years. The paper reported on the NAACP’s suit against the Detroit Housing Commission in 1950, and proudly announced when the judge in that case declared “separate housing facilities are inherently unequal” in 1954. In addition to reporting when the Newark Housing Authority abolished segregation in their housing projects in 1950, the paper followed the case in nearby Elizabeth, New Jersey, where black plaintiffs filed against the local housing authority in 1953 and won the suit the following year. Likewise, the *Afro-American* reported on

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<sup>175</sup> “New Housing About Ready,” *Baltimore Sun*, Sep. 30, 1958.

<sup>176</sup> “Housing Order,” *Baltimore Sun*, Nov. 23, 1962.

housing discrimination lawsuits in Toledo, Ohio in 1953. Perhaps the most surprising city missing from the *Sun*'s reporting and present in the *Afro-American* was Washington, D.C., where the decision to desegregate public housing and its implementation dragged on for years.<sup>177</sup>

As a final example, even when the *Sun* and the *Afro-American* did report on the same lawsuit, the depth of coverage and direction of the editorializing differed greatly. An AP article on Savannah, Georgia selected by *Sun* editors to run in the paper in July 1958 began, "The principle of voluntary racial segregation was approved by a Federal appellate court today in a decision against integration in a Savannah public housing project."<sup>178</sup> According to the piece, the Fifth District United States Court of Appeals decided, "If Negroes and whites desire to maintain voluntary segregation for the common good, there is certainly no law to prevent such cooperation. Neither the Fifth nor the Fourteenth Amendment operates positively to command integration of the races but only negatively to forbid governmentally enforced segregation." It is interesting that the court would term its decision in such a way, since if "Negroes and whites desire[d] to maintain voluntary segregation," the lawsuit in question would never have existed. It is also valuable to recognize this distinction made yet again about "voluntary" segregation, the same excuse made by the HABC for the lack of substantive desegregation efforts in its own project housing.

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<sup>177</sup> "Pennsylvania Town Ends Segregation in Housing," *Afro-American*, Dec. 31, 1955; "Ends JC Housing," *Afro-American*, Jan. 7, 1956; "Charge Segregation in Hartford Housing," *Afro-American*, Apr. 23, 1955; "Housing Bias Suit Filed in Detroit," *Afro-American*, June 17, 1950; "Jim Crow Public Housing Outlawed," *Afro-American*, July 3, 1954; "Newark to Abolish JC Housing Policy," *Afro-American*, Aug. 26, 1950; "Housing Commissioners on Spot: 13 Families Sue to Erase Housing Discrimination," *Afro-American*, May 30, 1953.; Samuel Haynes, "Segregation Must End Now, Court Rules," *Afro-American*, Feb. 6, 1954; "Toledo Favors Segregation," *Afro-American*, May 2, 1953; "Judge Delays Ruling on Housing, but Warns Authority to Integrate," *Afro-American*, Apr. 18, 1953; "Disgrace of the Capital: Washington's Slums and Racial Segregation Shame this Nation," *Afro-American*, Dec. 6, 1952.; "D.C. Housing Body Boots Segregation," *Afro-American*, Apr. 4, 1953.; "Public Housing to Open All Units Soon," *Afro-American*, May 29, 1954; "Segregation in D.C. Public Housing to End," *Afro-American*, Sep. 24, 1955.

<sup>178</sup> "Ruling is Given on Racial Plan," *Baltimore Sun*, July 3, 1958.

What the *Sun* article failed to mention was the background of the Savannah lawsuit. The suit was brought forward by Queen M. Cohen, a black woman who was denied housing in the Fred Wessels Homes, a white-designated project. Although the first time this project came to the attention of the *Sun* was this appellate court decision, the *Afro-American* had begun following the case five years earlier. In 1953, the *Afro-American* ran an article about a court challenge to plans to begin construction on the Fred Wessels Homes.<sup>179</sup> It is only in the *Afro-American* that readers discover the Fred Wessels Homes were constructed “on the ‘Old Fort’ site, an area inhabited by colored families.” The *Afro-American* reported on the case again in 1954, when the U.S. Court of Appeals dismissed a suit brought against the Savannah Housing Authority on a filing technicality, saying “the ‘important constitutional issues’ raised were not ready for decision.”<sup>180</sup> This background provides depth to the 1958 articles. In the *Afro-American*’s report, and missing in the *Sun*’s account, was the statement by the appellate court, that “there was ‘no indication’ that Mrs. Cohen actually wished to live in the project, since the case had been brought as ‘a test’ by the NAACP.”<sup>181</sup> Setting aside all discussion of the case itself, the *Sun* did not mention that the plaintiff in the case was a former resident of the neighborhood where these projects were built, which was cleared to make way for white housing, and she was then denied entrance into the public housing development. For the *Sun* to state that she did not actually want to live there but was just a pawn of the NAACP is quite telling of the paper’s perspective on the subject of housing desegregation.

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<sup>179</sup> “Federal Segregation is Upheld: Judge Holtzoff Says Segregation is Constitutional,” *Afro-American*, May 2, 1953. National Newspapers Publishers Association was a black trade organization equivalent to the Associated Press.

<sup>180</sup> “Avoids Segregation Issue: U.S. Court upholds Ga. Housing Ruling,” *Afro-American*, Mar. 27, 1954.

<sup>181</sup> “The Fight for Justice Through the Courts,” *Afro-American*, July 12, 1958.

Baltimore's black elites praised the "free choice" policies of both the school board and the HABC. The NAACP claimed credit for the school board policy, stating, "The policy statements...embodied the requests made by the [Baltimore] Branch," and branch president Lillie Jackson told the *Afro-American*, "The Baltimore Branch NAACP heartily commends the Baltimore City School Board for the magnificent decision."<sup>182</sup> In the days following the school desegregation announcement, the *Afro-American* declared, "In Maryland, we are face to face with integration."<sup>183</sup> Failing to draw a distinction between desegregation and integration, the *Afro-American* likewise celebrated the revised HABC policy as "one of integration."<sup>184</sup> In the elite black community, a colorblind liberalism focused on individual opportunity held sway. As Betty Murphy Phillips, daughter of the *Afro-American*'s owner explained, "there will be only a few colored pupils in many schools in our city. But that's not important — the important thing is that [individual black students] will now have an opportunity to avail themselves of all the public school facilities this city offers."<sup>185</sup> Phillips embraced the color-blindness of the policy. In another article, she expressed hope that "in the next 15 years...we get all our young people — white and colored — to stop thinking in terms of race."<sup>186</sup>

In both schools and public housing, those who championed integration hoped that the new policies adopted after *Brown v. Board* would open a path toward racial integration, and through that, an end to racial discrimination. In the school system, nearly the opposite was true. Though some individual black families bravely chose to send their children to formerly all-white schools, for a variety of reasons, the vast majority of black children remained in all-black

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<sup>182</sup> Outstanding Achievements of the Baltimore Branch of the N.A.A.C.P., MSS83464, Clarence M. Mitchell family papers, Library of Congress; "Residents of Both Races Happy About School Ruling," *Afro-American*, June 12, 1954.

<sup>183</sup> "We must learn to live with it," *Afro-American*, June 12, 1954.

<sup>184</sup> "Housing integrated in Baltimore City," *Afro-American*, July 3, 1954.

<sup>185</sup> Betty Murphy Phillips, "What Integration Means to You, Me," *Afro-American*, June 5, 1954.

<sup>186</sup> Betty Murphy Phillips, "This Won't Happen under Integration," *Afro-American*, June 26, 1954.

schools. For the 1954-55 school year, fewer than 5 percent of black students attended schools with white classmates.<sup>187</sup> In the 1960s, due to a boom in Baltimore's black population, more black children were attending all-black schools than had before *Brown v. Board*; by the end of the century, the racial composition of Baltimore public schools would shift from 60 percent white, to 89 percent black.<sup>188</sup> This pattern of limited desegregation followed by re-segregation as a result of large-scale abandonment by white families would likewise play out in the public housing sector, as the following chapters detail.

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<sup>187</sup> Baum, 84.

<sup>188</sup> David, "Blurring the Color Line," 245; Baum, xi. One additional problem was the School Board's emphasis on "neighborhood schools" even as they refused "districting" plans. Requests to transfer required permission from both school principals, which the principals could deny for a preference that students remain in their neighborhood schools in their residentially segregated neighborhoods.

#### 4 CHAPTER THREE: DESEGREGATION IN PRACTICE

In 1954, the Housing Authority of Baltimore City (HABC), following what it saw as a national trend challenging overt segregation, declared its public housing projects desegregated.<sup>189</sup> As in Baltimore's public schools, the liberal policy of "freedom of choice" applied public housing projects, hinged on the power of individual decision making in the face of long-standing, systemic, codified segregation. This "color-blind" plan was easy to declare, absolving local authorities of responsibility for integration, but left open questions about implementation that housing officials struggled with for the rest of the 1950s and into the 1960s. More than a decade after officially ending segregation policies in its projects, Baltimore public housing remained racially segregated on a de facto basis, due in part to a combination of factors including the city's history of residential segregation, overt racism, and unequal opportunity supporting white upward mobility; but primarily, Baltimore's public housing remained segregated because of the lack of institutional support inherent in the classically liberal idea of "free choice."

Even after the HABC resolved to "eliminate the factor of race" in public housing admissions, questions remained about how exactly to implement the new policy.<sup>190</sup> The department first looked to Fairfield Homes, a project constructed by the federal government in 1943 as war housing for employees at the Bethlehem-Fairfield shipyards, located on an industrial peninsula alongside the Patapsco River.<sup>191</sup> Complementing the all-white Fairfield Homes, was a separate temporary project built for black workers, called Banneker Homes. Although both

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<sup>189</sup> Oliver C. Winston, Speech entitled Desegregation Policy: An Address to All Employees of the Housing Authority of Baltimore City, June 30, 1954, Series 3, Plaintiff Exhibits, Box 5, Exhibit 137, ACLU.

<sup>190</sup> Winston, Desegregation Policy.

<sup>191</sup> P. Nicole King, "Preserving Places, Making Spaces in Baltimore: Seeing the Connections of Research, Teaching, and Service as Justice," *Journal of Urban History* 40 no. 3, May 2014: 436.

projects were turned over to the HABC for low-income housing following the war, Banneker was torn down in the early 1950s, and in 1953, the HABC had begun the process of re-designating Fairfield Homes for all-black residency.<sup>192</sup> By then, the area surrounding Fairfield had deteriorated significantly, contaminated with industrial pollution and detritus. Simultaneously, the area suffered from what historian Nicole King refers to as “disinvestment” from city officials who, among other things, failed to modernize the site with the water and sewer lines constructed throughout the majority of the city following the war.<sup>193</sup> No longer desirable, the site was to be given over to black residency; unlike the fights over Herring Run in the 1940s, the move garnered little resistance from white residents.

The large-scale changeover from white to black occupancy at Fairfield had already begun by the time of the HABC’s 1954 desegregation decision. Seeing this moment as an opportunity to test out integration in public housing, the HABC halted transfers of white residents out of Fairfield Homes. By that point, however, most of the residents had already left, and only 69 white families remained in the project.<sup>194</sup> Eight black families became the first to integrate Fairfield Homes on November 16, 1954, and by August of the following year, the project was once again near full capacity.<sup>195</sup> Despite this “integration,” within a year, Fairfield was 90 percent black—effectively the same racial turnover the HABC had planned before instituting their “free choice” desegregation policy.<sup>196</sup>

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<sup>192</sup> King, 437; Peter Harry Henderson, “Local Deals and the New Deal State: Implementing Federal Public Housing in Baltimore, 1933-1968,” Ph.D. diss, Johns Hopkins University, 1994, 236.

<sup>193</sup> King, 437.

<sup>194</sup> Memorandum from Maulsby, Sept 11, 1964, Series 3, Plaintiff Exhibits, Box 5, Exhibit 147A, ACLU.

<sup>195</sup> Letter Oliver Winston to Charles L. Levy, Nov. 16, 1954, Series 3, Plaintiff Exhibits, Box 5, Exhibit 138, ACLU.

<sup>196</sup> Memorandum from Van Story Branch to R. C. Embry, Requirements for Administration of Low-Rent Housing Under Title VI of the Civil Rights Act of 1964 - Selection of Applicants and Assignment of Dwelling Units, Oct. 16, 1968, Series 3, Plaintiff Exhibits, Box 5, Exhibit 162, ACLU.



The next phase of implementing the new housing policy came about in the summer of 1955. On May 31, nine black families moved into Perkins Homes in Southeast Baltimore, near the ethnic enclave known as Little Italy. The next day, seven black families moved into Latrobe Homes, just a mile north. Despite having made the decision to move black families into formerly all-white projects as vacancies became available, officials held back applications for black residency until a group of sufficient size had amassed to enable a cohort.<sup>197</sup> In both Latrobe and Perkins, like in Fairfield Homes, the scales of racial balance tipped quickly. By 1964 both projects were majority black, and by 1970, had further increased to 80-90 percent black residency.<sup>198</sup>

The first three integrated projects were the result of moving black residents into formerly all-white housing facilities, but the HABC also had several new public housing projects in the pipeline at the time of their desegregation decision. As HABC Director of Housing Management Harry Weiss explained, this provided an opportunity to open new housing on an integrated basis, drawing a distinction between desegregation and integration: “In the case of existing projects desegregation is the issue while with the new projects integration can begin at initial occupancy.”<sup>199</sup> This distinction between desegregation and integration was unusual, as the terms were used interchangeably by most HABC officials at the time; moreover, Weiss highlighted a difference in process, not in outcome. Despite all new public housing projects after 1954 opening on an integrated basis, all of these saw the same trend of rapid turnover to all-black occupancy. Lafayette Homes, for example, opened in 1955 with only nine white families. By the following

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<sup>197</sup> Memorandum from Maulsby, Sept 11, 1964, Series 3, Plaintiff Exhibits, Box 5, Exhibit 147A, ACLU.

<sup>198</sup> Expert Report of Karl Taeuber, 102, Series 3, Plaintiff Exhibits, Box 1, Exhibit 2, ACLU, 37.

<sup>199</sup> Memorandum Harry Weiss to Ellis Ash, July 27, 1954, Observations on the Desegregation Policy in the Tenancy and Relocation Families, BRG48-13, Box 5, Folder 3, BCA.

year, that number had dropped to four, all of whom left within the decade.<sup>200</sup> Another project, Flag House, opened on the edge of Little Italy in 1954 with 76 percent white occupancy. By 1958, that had dropped to 60 percent—still a laudable enough number that the *Sun* reported, “Segregation regulations were dropped several years ago, but in practice there has been little intermingling of the races in the assigning of apartment space except for Flag House Courts.” Although its location on the border of Little Italy, a low-income ethnic white neighborhood, slowed the racial turnover, by 1970, even Flag House had become 95 percent black.<sup>201</sup> In fact, all eight projects opened on a “desegregated basis” were overwhelmingly black-occupied by 1970.<sup>202</sup>

Despite their stated hopes for integration of the public housing project, officials soon realized the limits of their success. In a late 1959 memo, five years after desegregation was announced, Weiss wrote to Edgar Ewing regarding the “steadily rising percentage of Negro occupancy at all projects.” Furthermore, he noted, “The future projects that are presently planned are likely to be substantially Negro in occupancy, if not completely so.”<sup>203</sup> This same trend of racial turnover had been experienced by housing officials in other cities, including Chicago. Despite the Chicago Housing Authority opening Wentworth Gardens as an integrated project in 1947, the combination of long-term residential segregation and housing shortages in black neighborhoods led to an applicant pool that was entirely black. According to reports, when white people arrived to find a line of black applicants, the white people left without applying. As a staffer noted, “Unless a public relations job is done in advance of the actual selection of tenants,

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<sup>200</sup> Expert Report of Karl Taeuber, 43.

<sup>201</sup> *Ibid.*, 42.

<sup>202</sup> *Ibid.*, 46.

<sup>203</sup> Memorandum from Harry B. Weiss to Edgar Ewing, Status of Desegregation, November 5, 1959. Series 3, Plaintiff Exhibits, Box 5, Exhibit 150, ACLU.

the project will become uni-racial as a result of the overwhelming need among Negro families.”<sup>204</sup> At another public housing project in Chicago, officials had hoped for 20 percent white occupancy upon opening to mirror the neighborhood before the redevelopment. Instead, like with Lafayette Homes and Flag House Courts, the few white tenants who initially moved into the project soon left.<sup>205</sup>

HABC officials were well aware of the possibility of this “re-segregation.” Years earlier, Weiss had warned the housing program director that segregation was, “not necessarily forced; it may be voluntary, since persons may prefer to live among others of similar cultural background.” Likewise, he noted that integration was not necessarily voluntary either, because “the denial of free choice may be required to insure against a continuance or resurgence of a segregated pattern.”<sup>206</sup> To the public housing officials in Baltimore, the matter of deepest concern was the appearance of free choice, rather than the outcome of continued segregation. This supposed “choice” was disconnected from any consideration of systemic racial or class barriers that could prevent individuals from making a choice, or any discussion of whether a choice was actually meaningful. By embracing this stance, officials were able to willfully avoid having to address segregation caused by decades of residential discrimination and racially based policy decisions. To force integration at the cost of free choice proved unacceptable to housing officials, not only because of the ideologically liberal focus on individual decision making disconnected from societal factors, but also because of the more practical benefit—the continued ability to avoid responsibility for correcting the situation.

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<sup>204</sup> D. Bradford Hunt. *Blueprint for Disaster: The Unraveling of Chicago Public Housing*. Chicago: University of Chicago Press, 2009, 59-60.

<sup>205</sup> Hunt, 57.

<sup>206</sup> Memorandum Harry Weiss to Ellis Ash, July 27, 1954, Observations on the Desegregation Policy in the Tenancy and Relocation Families, BRG48-13, Box 5, Folder 3, BCA.

As the previous chapter argued, Baltimore was one of the first cities to apply the individualist tenets of classical liberalism to desegregation of the school system, which prevented school board members from taking steps to positively address the system's racial disparities, but this avoidance of responsibility was not unique to Baltimore. As Ansley Erickson explored in her recent book, *Making the Unequal Metropolis: School Desegregation and its Limits*, school desegregation in Nashville followed different patterns stemming from the same processes. She wrote of the Nashville school board, "Their stunted vision was as much material as cultural; their racism a system of power as much as a matter of individual feeling." These "basic political and economic structures," stemming from a racially-based and racially-biased system, hindered efforts to proactively further desegregation through busing in the late 1960s and 1970s.<sup>207</sup> In a broader sense, American society fundamentally emphasized the supposed link between worthiness, effort, and success—in which case poverty was evidence not of systemic racial injustice, but personal failure.<sup>208</sup>

Weiss's 1954 letter to Ash had also warned that "selection solely on the basis of 'need' might well re-establish segregation."<sup>209</sup> Applicants displaced from their homes due to city urban renewal projects were placed at the top of the public housing waiting lists. As Weiss recognized, most of these urban renewal areas were black neighborhoods, which meant a high percentage of those placed in public housing would be black. This only served to exacerbate the long-standing shortages of housing available to black residents.

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<sup>207</sup> Ansley T. Erickson, *Making the Unequal Metropolis: School Desegregation and its Limits* (Chicago: University of Chicago Press, 2016), 9.

<sup>208</sup> For more, see Michael Katz, *The Undeserving Poor: America's Enduring Confrontation with Poverty*, 2nd ed., (New York: Oxford University Press, 2013).

<sup>209</sup> Memorandum Harry Weiss to Ellis Ash, July 27, 1954, Observations on the Desegregation Policy in the Tenancy and Relocation Families, BRG48-13, Box 5, Folder 3, BCA.

In many cities across the nation, neighborhood residents who were displaced by urban renewal or to make room for new housing projects were unable to return, even after the projects were desegregated. Housing historian Lawrence Vale estimated that in Boston, only between 2 and 12 percent of those displaced from public housing sites were admitted to the subsequently constructed housing projects; figures from New York City are only slightly higher, at 18 percent.<sup>210</sup> In other cities like Chicago, neighborhood composition rules were used to justify low percentages of returning residents. In the Jane Addams Homes project in Chicago, data showing only 35 black families living on the site before clearance was used as justification for admitting only 30 black families back into the 1,027-unit project.<sup>211</sup> As Vale explained, housing reformers “proposed to replace ‘housing conditions’ with better housing...not necessarily say that the people lifted bodily out of their present homes would be the same bodies selected to return to the improved district.”<sup>212</sup> Housing shortages were further exacerbated when demolished land was not replaced by low-rent housing, but commercial or market-rate development.<sup>213</sup>

The racial turnover in Baltimore public housing was not without local precedent. Until 1917, housing in Baltimore was not racially segregated. Black families were spread throughout the city, generally living in two-story alley houses. At the turn of the century, the “best” black families began moving into the northwestern part of the city, along the westernmost border of the affluent white Eutaw Place neighborhood.<sup>214</sup> The backlash to this black migration foreshadowed the debates over Herring Run described in earlier chapters, as well as Baltimore public housing

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<sup>210</sup> Lawrence J. Vale, *Purging the Poorest: Public Housing and the Design Politics of Twice-Cleared Communities* (Chicago: The University of Chicago Press, 2013), 13.

<sup>211</sup> Hunt, 55.

<sup>212</sup> Vale, *Purging the Poorest*, 8.

<sup>213</sup> Rhonda Y. Williams, *The Politics of Public Housing: Black Women's Struggles Against Urban Inequality* (Oxford: Oxford University Press, 2004), 98.

<sup>214</sup> Garrett Power, “Apartheid Baltimore Style: The Residential Segregation Ordinances of 1910-1913,” *Maryland Law Review* 42 (1983).

writ large. In the summer of 1910, black lawyer George W.F. McMechen moved into a house on McCulloh Street, becoming the first black family to cross the racial divide into Eutaw Place. In response, the Baltimore City Council passed an ordinance forbidding black families from moving onto any block that was more than 50 percent white-occupied.<sup>215</sup> When the law was ruled unconstitutional by the 1917 U.S. Supreme Court Case *Buchanan v. Warley*, white neighborhoods instead turned to the use of restrictive covenants.<sup>216</sup> Racist lending practices known as “redlining,” backed by the Homeowners Loan Corporation, further exacerbated the shortages caused by in-migration of African Americans during the Great Migration and World War II. A 1946 survey by the Baltimore Urban League found that black homeowners were paying an average of 170 percent above prewar levels and at least 75 percent above present market values.<sup>217</sup> By the time the U.S. Supreme Court ruled such covenants unconstitutional in the 1948 *Shelley v. Kraemer* decision, demand for decent black housing combined with white hysteria had reached critical mass. Blockbusting fervor swept the city, with panicked whites selling their homes in transitioning areas.<sup>218</sup> In the decade from 1955 to 1965, the West Baltimore neighborhood of Edmonson Village went from nearly all-white to nearly all-black.<sup>219</sup>

This trend presaged the racial turnover that occurred in Baltimore’s public housing. The numbers of white applications to HABC-administered housing dropped precipitously in the years after the desegregation policy was announced, from 2,563 in 1950 to 807 in 1966. While black families faced federal policies that limited their housing choices, white families were granted an abundance of options from mortgage loan assistance to GI Bill benefits that encouraged home

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<sup>215</sup> *Baltimore Sun*, December 20, 1910.

<sup>216</sup> *Buchanan v. Warley*, 245 U.S. (1917); Antero Pietila. *Not in My Neighborhood: How Bigotry Shaped a Great American City* (Chicago: Ivan R. Dee, 2010).

<sup>217</sup> Baltimore Urban League Survey, March 11, 1946, BJC 333, Jewish Museum of Maryland, Baltimore, Maryland.

<sup>218</sup> *Shelley v. Kraemer* 334 U.S. (1948).

<sup>219</sup> W. Edward Orser, *Blockbusting in Baltimore: The Edmondson Village Story* (Lexington, Kentucky: The University Press of Kentucky, 1994), 4.

ownership and enabled white flight from diversifying neighborhoods to the suburbs. Baltimore historian Edward Orser referred to this pattern as the “proverbial pull and push of suburbanization: the attraction of new housing in a suburban setting, the push of groups from whom they sought social distance.”<sup>220</sup> Programs meant to benefit upwardly mobile residents and prevent the need for subsidized public housing disproportionately benefited whites, often by design.<sup>221</sup> Like at the Wentworth Gardens and Cabrini projects in Chicago, poor whites had choices not available to poor black residents, and often exercised those options to avoid desegregated public housing. In Baltimore’s public housing projects, desegregation did not lead to integration, but instead single-race occupancy by black residents. As George J. Marder said in a 1965 article in the *Baltimore Afro-American* newspaper, “What starts out as open housing to all races often ends up all-colored.”<sup>222</sup>

The same patterns were replicated throughout the HABC project areas. During World War II, HABC had operated six black-only projects. Despite ostensible desegregation of the housing program, not a single one of these projects had become home to a white family by the 1970s.<sup>223</sup> On the opposite end of the spectrum, the white-only projects of Brooklyn Homes, Claremont Homes, and O’Donnell Heights remained exclusively white until well into the 1960s. Even thereafter, these projects remained 80-90 percent white, only marginally desegregated.<sup>224</sup> Of the 1,601 white families in the HABC housing system during 1970s, 1,393 of them lived in

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<sup>220</sup> Orser, 63.

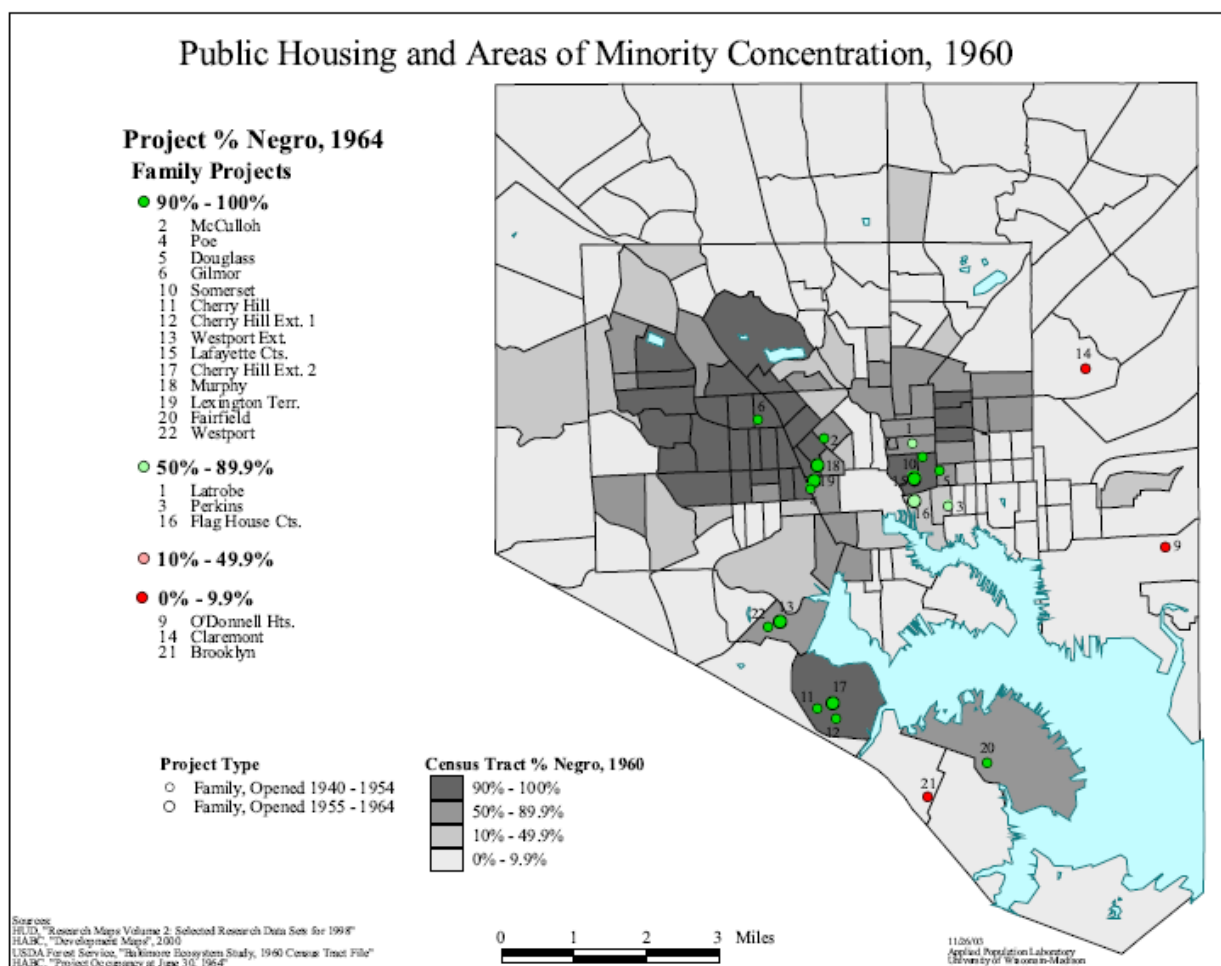
<sup>221</sup> Vale, *Purging the Poorest*, 17. Also see Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright Publishing Group, 2017).

<sup>222</sup> George Marder, “Housing, Real U.S. Dilemma,” *Afro-American*, Nov. 27, 1965.

<sup>223</sup> Expert Report of Karl Taeuber, 36.

<sup>224</sup> These three projects remained 70-82% white even in 1985, during a period in which only 7% of housing applicants were white. Even so, the City Housing Commissioner Marion Pines continued to claim in a Congressional hearing that “blacks who want to move into those projects do not face barriers now” and that both white and black tenants would likely oppose implementation of a racial quota system. (Eileen Canzian, “Baltimore Finds Integrating Public Housing an Elusive Goal”, *Baltimore Sun*, July 2, 1985.)

these three projects. The vast majority of white public housing residents were thus concentrated in these mostly white projects. This was likely the result of two mutually reinforcing factors: the lack of integration in these projects meant white residents were less likely to flee and cause racial changeover, and those who did leave the projects for the suburbs or market-rate housing would be replaced by other white applicants who chose those projects because of its lack of integration. Despite a majority-black waiting list for HABC-administered housing, all new residents in these three projects were white until 1967.<sup>225</sup>



*Figure 4.1 Locations of Baltimore Public Housing Projects, 1960*<sup>226</sup>

<sup>225</sup> Expert Report of Taeuber, 38-39.

<sup>226</sup> Map, Public Housing and Areas of Minority Concentration, 1960, ACLU of Maryland, <https://www.aclu-md.org/en/cases/thompson-v-hud>.



That Brooklyn, Claremont, and O'Donnell remained overwhelmingly white despite desegregation was not a fluke, but by design. The HABC officially blamed these racial disparities on the black housing recipients, saying that “unless a family had its roots” in the surrounding neighborhoods, “they were not interested.”<sup>227</sup> The fact that a history of residential segregation meant that no black applicants would have such “roots” in the white neighborhoods surrounding the projects was not considered. Instead, as the *Sun* dutifully declared in 1962, “integration prevails” in fifteen of the eighteen projects administered by HABC, “there being only three which are all white—and these only because there have been no Negro applicants.”<sup>228</sup> In a 1971 memo, HUD administrators described policies they called “freedom of choice” tenant selection plans. HUD acknowledged that under such plans, at least theoretically, “If a black applicant wanted to live in a white project,” he need simply apply and, should a unit be available, he would be eligible to rent it.<sup>229</sup> Indeed, this was exactly as the HABC described and defended their program. In reality, freedom of choice plans did little to change racial occupancy patterns. While conforming to the letter of the law, these plans did not take affirmative actions to encourage integration, but merely put in place requirements to avoid codified discrimination. The onus of action was on individual residents to make changes. As the HUD memo described, freedom of choice plans were insufficient to “counteract social inhibitions which had become institutionalized to such an extent that people were afraid to exercise their freedoms.” Indeed,

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<sup>227</sup> Memorandum from Branch to Embry, Oct. 16, 1968.

<sup>228</sup> “Housing Order,” *Baltimore Sun*, Nov. 23, 1962.

<sup>229</sup> Assistant Secretary for Housing Management, Assistant Secretary for Equal Opportunity, HUD, Tenant Selection in the Public Housing Program, 1971, Series 3, Plaintiff Exhibits, Box 2, Exhibit 49, ACLU.

local administrators often managed freedom of choice plans in ways that worked to “preclude both freedom and choice.”<sup>230</sup>

In July 1966, HUD questioned HABC on the continued segregation in Brooklyn, Claremont, and O’Donnell housing projects.<sup>231</sup> Rather than undertaking a policy to more broadly desegregate the projects, HABC responded by trying to attract enough black residents into the white projects to satisfy HUD scrutiny.<sup>232</sup> In an HABC committee meeting, the housing officials created a plan to encourage black Baltimoreans to apply for standing vacancies in white projects. This time, instead of using racially coded language to justify their discrimination, the HABC used administratively coded language. Commissioners began by making plans to desegregate O’Donnell Heights, which at the time consistently maintained 30-40 standing vacancies—approximately a 4 percent vacancy rate, more than double the maximum allowable under HUD regulations. The committee also noted that the vacancies were mostly in large-sized dwelling units. When planning the desegregation of O’Donnell, however, the committee determined that they should not transfer in “overcrowded families” from other projects in order to fill the vacancies. Families whose units were too small for their large number of household members and needed the kinds of larger units standing vacant in O’Donnell were specifically excluded from the desegregation effort. The justification given by the board was that white residents

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<sup>230</sup> Ibid.

<sup>231</sup> Expert Report of Karl Taeuber, 3, 55.

<sup>232</sup> This pattern of desegregation through black movement into white spaces rather than the inverse has been studied in school desegregation, including work by Ansley Erickson, *Making the Unequal Metropolis: School Desegregation and its Limits* (Chicago: University of Chicago Press, 2016); Richard Alan Pride and J. David Woodward, *Burden of Busing: The Politics of Desegregation in Nashville, Tennessee* (Knoxville: University of Tennessee Press, 1985); and Sarah Garland *Divided We Fail: How an African American Community Ended the Era of School Desegregation* (Boston: Beacon, 2013).

would feel more receptive to incoming black residents drawn from the “general community” rather than from other projects.<sup>233</sup>

HABC commissioners also suggested that the Housing Application Office be required to “notify all prospective tenants of available dwelling units, and their waiting time.” This policy, which actually already existed, allowed the housing authority to put the onus on potential black residents to seek out information on O’Donnell Heights rather than soliciting non-white tenants and actively working to desegregate the project. Once an applicant expressed interest, however, the office was required to immediately notify the director and provide the housing, in the interest of increasing the number of non-white families in the project. Even so, they decided that, for their own safety, new black residents would be moved into the white projects as cohorts of at least three families.<sup>234</sup> The plans further implemented procedures to “encourage standard families to apply for public housing.” At this time, “standard families” referred to two-parent families and generally required that at least one parent be employed. Although this statement stayed within the required policy of openness to single-parent families and welfare recipients, encouraging “standard families” to apply increased these more “respectable” applicants to the pool so they could then be selected for the desegregation effort.

For the initial cohort of black families in O’Donnell Heights, the HABC plan was even more specific, stating, “At first, only standard families including husband and wife, with or without children (preferably not more than two) will be referred.”<sup>235</sup> Thus, although operating within an official policy allowing applications from any type of family, officials were clear that they planned to select a specific type of black family for residence in O’Donnell Heights. This is

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<sup>233</sup> Memorandum from R.L. Steiner to Saul M. Perdue, Interim Report - Recommended Procedures for Filling Standing Vacancies, July 19, 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 152A, ACLU.

<sup>234</sup> Ibid.

<sup>235</sup> Ibid.

a unique glimpse into the respectability politics behind the veneer of HABC’s “freedom of choice”—while the housing authority constantly pointed to the freedom of applicants to apply wherever they wanted as evidence of non-discrimination, the authority clearly had no qualms about selecting those who most closely fit the middle-class white ideal. Moreover, as previously mentioned, HABC commissioners purposely chose to initially accept only small families, despite the abundance of large unit vacancies in O’Donnell—exactly the type of units desperately needed by larger families the agency often had trouble placing. Yet here, when they had large units sitting vacant, HABC not only decided to disallow overcrowded black families already within the public housing system to move in, but also to exclude large families on the waiting lists to be placed.<sup>236</sup>

This choice to prioritize new applicants over those already in public housing is notable, considering that the proposed policy did allow that, if needed to enable three families to move in simultaneously, “existing public housing families” could be transferred.<sup>237</sup> This distinction played into stereotypes about people who lived in public housing, a population that HABC had openly described as “more and more broken, old-age, and single-person families.”<sup>238</sup> Transferring larger, less traditionally structured families into bigger vacant units would have solved two problems at once, and yet officials bowed to societal pressures that considered new residents preferable to those who seemingly embodied the worst characteristics assumed of public housing residents. The HABC officials planned to move these new black residents in during the fall or winter months, explaining, “During this period there is less movement of

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<sup>236</sup> Memorandum from R. L. Steiner to BURHA Staff listed, Aug. 1, 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 152, ACLU.

<sup>237</sup> Memorandum from R.L. Steiner to Saul M. Perdue, Interim Report - Recommended Procedures for Filling Standing Vacancies, July 19, 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 152A, ACLU.

<sup>238</sup> Carroll E Williams, “New Trends Alter Public Housing Here,” *Baltimore Sun*, Nov. 28, 1957.

individuals outside their respective homes,” and that children were less likely spend time outside. Instead, “The interests and energies of the children would be directed more to the structured school programs.”<sup>239</sup> Here, too, officials relied on stereotypes of “problem families” for policy making, playing into fears and assumptions that black youth were likely to cause problems in the new projects.<sup>240</sup>

These new guidelines, though meant to support the existing “freedom of choice” plan, show that the original plan was flawed and led to “self-segregation” of housing applicants—or, in the parlance of the HABC policy, applicants “choosing” to remain segregated. That there were so many standing vacancies in O’Donnell Heights either means that black applicants on the long wait lists were not told that there were openings available in the white projects, or were being discouraged or rejected from applying to those openings. Though this is “freedom of choice” on one level, in that the black applicants had not actively pursued the vacancies in O’Donnell Heights, it necessarily leads to questions about how much information is necessary for such choices to be meaningful. Putting the onus of “choosing desegregation” on the black residents themselves absolved the HABC from responsibility for managing and facilitating desegregation and non-discrimination in its public housing projects. It thus became the failure of individuals for not choosing to live in integrated projects—precisely the liberalism inherent in the desegregation program from the start.

Although the new policy plan was drafted in July 1966, by November, no concrete steps had been taken to desegregate O’Donnell, Claremont, or Brooklyn Homes. That month, Mayor McKeldin, Ewing, and Feinblatt went to Washington, D.C. for a meeting with HUD Secretary

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<sup>239</sup> Memorandum from R.L. Steiner to Saul M. Perdue, Interim Report - Recommended Procedures for Filling Standing Vacancies, July 19, 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 152A, ACLU.

<sup>240</sup> Carroll E Williams, “New Trends Alter Public Housing Here,” *Baltimore Sun*, Nov. 28, 1957.

Robert Weaver.<sup>241</sup> In that meeting, Weaver warned the group that a change would be coming in HUD policy regarding “freedom of choice” plans. Weaver promised a public statement would be issued, but soundly refused to go into specifics or allow the HABC to review the statement before it was released to the public. He did indicate that the statement, “would not question the intention, the integrity or the commitment of Baltimore,” but fell short of promising not to criticize the HABC program or its implementation. Furthermore, Weaver warned that HUD would not be approving plans for the multi-million dollar Inner Harbor redevelopment, “until HUD is satisfied with...a full and complete explanation of our public housing picture,” particularly in relation to integrating the three remaining all-white projects.

Spurred into action by the threat of funding cuts for their commercial urban renewal, HABC Director Steiner met with Baltimore Police Commissioner Donald D. Pomerleau. In his letter following up with Pomerleau, Steiner reiterated the stance that HABC was taking on desegregating the three white projects. Despite HUD requiring that HABC end segregation in Brooklyn, Claremont, and O’Donnell, Steiner explained, HABC “is making no special effort to house nonwhite families” in the three projects. However, he wrote, “In the process of filling vacant apartments, if a nonwhite family is on the eligible list of families to be housed, then it will be housed in the project of its choice, which may be O’Donnell Heights, Claremont, or Brooklyn Homes.”<sup>242</sup> “Freedom of choice” thus protected HABC officials both from the responsibility of managing desegregation, and from possible blame when desegregation did happen. Since it was an individual applicant who would have to choose to move in and desegregate the white projects,

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<sup>241</sup> Edgar Ewing, Notes on Meeting with the Secretary, Department of Housing and Urban Development, Washington, D.C, Nov. 21, 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 159, ACLU.

<sup>242</sup> Letter R.L. Steiner to Donald D. Pomerleau, December 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 155, ACLU.

the HABC was able to shift responsibility, and thus potential political backlash, away from themselves for such action.

The HABC continued forward with the plan it had laid out in July. On December 22, the housing office sent notification letters to the current residents of Brooklyn, Claremont, and O'Donnell for the express purpose of explaining the policy of "eligibility for residence" in public housing.<sup>243</sup> The letters informed residents, "It has been the policy of this Agency since 1954 that race would not be a factor in determining where any eligible family might live in the public housing projects," and yet "to date, no non-white family has asked" to move into the white projects. Echoing the language used in the letter to Chief Pomerleau, the letter continued, "In the process of filling such vacant dwellings, it is possible that some Negro families may request housing" in their project. In these letters, HABC directly blamed any black applicants who requested housing within the still-white projects for the desegregation that was set to occur. Though the letter concluded with the hope that residents understood federal requirements and would "do everything possible to preserve harmonious neighborly relations if a Negro family does move in at some time in the future," it is foolish to believe that officials believed white residents of these projects, which had become the safe haven of white public housing residents, would allow the change without pushback. Moreover, having disavowed their own control over the situation and placed responsibility squarely on the shoulders of any black residents who would cross the racial barrier, HABC officials put a target on the backs of the new black residents. The danger of the situation would become clear when a copy of the letter to the

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<sup>243</sup> Letter R.L. Steiner to Public Housing Resident, December 22, 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 153, ACLU.

O'Donnell Heights residents was returned, emblazoned with a swastika and the words "WE ARE READY."<sup>244</sup>

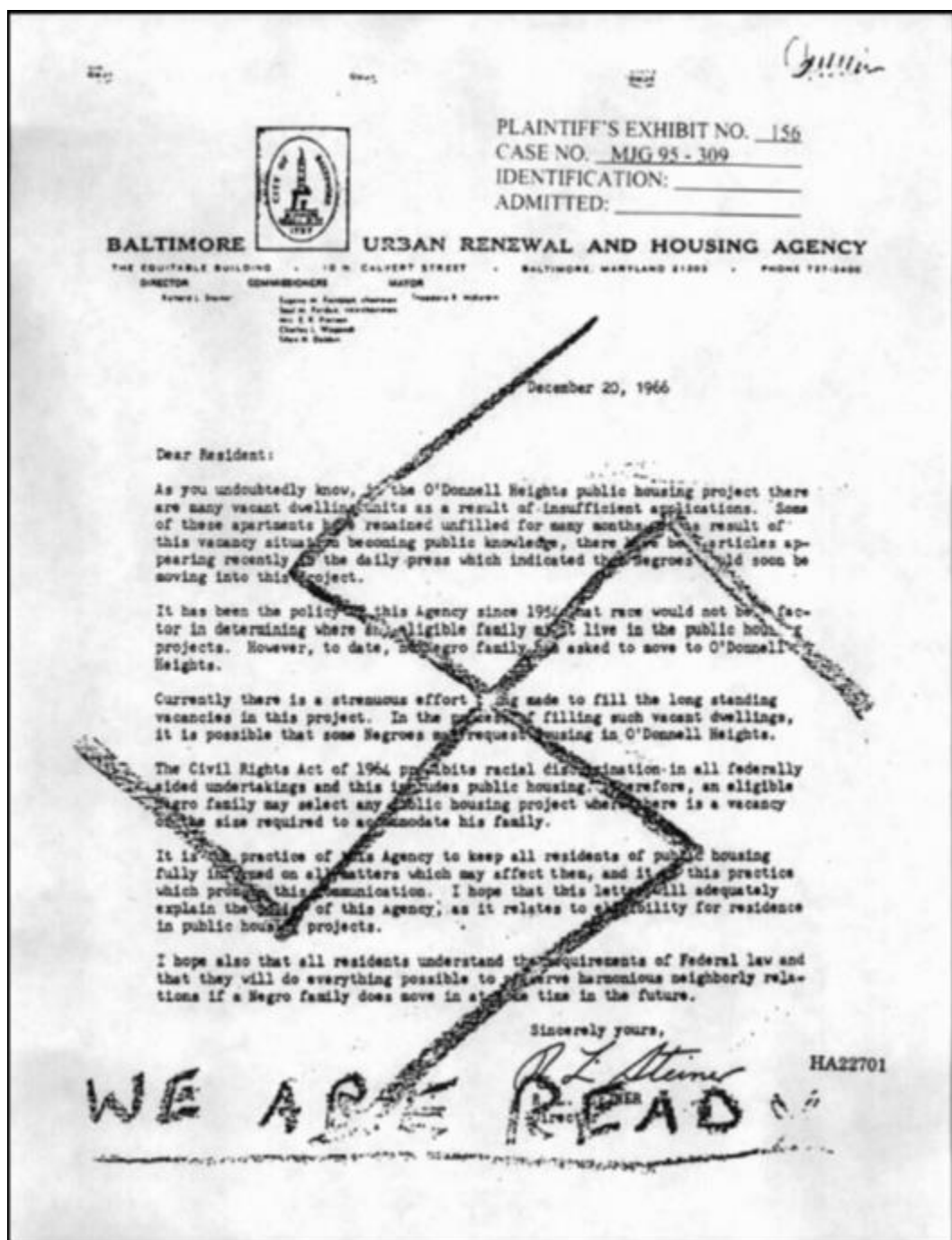


Figure 4.2 "We Are Ready" Letter to O'Donnell Heights Residents, 1966<sup>245</sup>

<sup>244</sup> Letter from R. L. Steiner, Director, BURHA to Dear Resident with handwritten markings, Dec. 20, 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 156, ACLU.

<sup>245</sup> Ibid.



Despite the attempts by HABC officials to shift public perception of responsibility through framing desegregation as something being done by individual black applicants rather than the agency, protesters against the change made no such distinction. One flyer, titled “Negroes and O’Donnel [*sic*] Heights,” proclaimed elected officials to be “race-mixers,” while calling the urban renewal director Director Richard Steiner “a jew from the city.” It went on to say, “The people you have elected to office are rewarding you with their garbage. They are about to make O’donnel [*sic*] Heights a City Dump by sending you the City’s trash...the Negro.” It proclaimed that black residents would lead to “vandalism [*sic*], yokings, rapes, beatings, filfth [*sic*] and fear that the negro brings with him from the Black City.” The flyer referred to Baltimore as “McKeldin’s Town,” displaying animosity towards the Mayor for his support for the city’s black community, whose support had helped him win reelection in 1963. Invoking southern myths of rapacious violent blacks, the flyer asked readers to consider “when your kids will be afraid to walk your streets in peace, when your daughters will be molested, when you will not even be able to sit on your steps in peace,” to then “think of those that you have elected to office and wonder if THEY are putting up with this where they live. You can be your sweet life they are NOT.” That the flyer referred to ownership of “your steps” is curious, showing little distinction between homeownership and residency in public housing—at least, for white residents. The sentiment in the flyer emphasized not only class and racial difference, but physical distance: “Those who have decided that you and the blacks will live in harmony and love are the same ones that live far, far away from the negroes.” Finally, the same language of “invasion” prevalent in discussions of residential segregation during the Herring Run debates of the 1940s again featured prominently, with the flyer instructing readers, “You and your White neighbors

had better band together and be prepared for this invasion. Be prepared to defend yourself and your loved ones...with White Power, if necessary.” The flyer also included Director Steiner’s home address and telephone number.<sup>246</sup>

Another flyer that was distributed by O’Donnell resident Faith Gosnell read in part, “People of O’Donnell Heights and surrounding areas—LISTEN!! Stand up for yourselves! Negroes in your neighborhoods mean CRIME! Murder, rape, assault, robbery upon you and your family. Fight for your rights NOW!!! Before it is too late.” Interviewed by the *Baltimore Sun*, Gosnell “denied she believed in racial superiority but said she believed there was an ‘inborn tendency’ for Negroes to be more violent than whites.”<sup>247</sup> Since white public housing residents could not frame their resistance to desegregation in terms of lowered property values, Gosnell attempted to legitimate her protest through supposed concerns over crime, equating black people with violence, a stereotype common throughout the racial history of the United States, but especially prevalent in debates around urban renewal.

Soon after the protests, Gosnell’s mother, Anna Broyles, was served notice of eviction from their unit in O’Donnell Heights. Broyles filed an official complaint that the eviction was in retaliation for Gosnell’s picketing, a charge that project management vehemently denied. In fact, Broyles had been served the first notice of eviction back in June due to four other residents living illegally in Broyles’ unit, including Faith Gosnell. Even so, Broyles went to the Maryland Commission on Interracial Problems and Relations complaining, “I feel I’m being intimidated because of my daughter’s picketing.”<sup>248</sup> Broyles’ stunning display of hypocrisy was not limited to white tenants breaking the rules while complaining about black malfeasance, but also in her

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<sup>246</sup> Handwritten flyer directed to “People of O’Donnell Heights” from the Ad Hoc Committee for Sound Government, Series 3, Plaintiff Exhibits, Box 5, Exhibit 157, ACLU.

<sup>247</sup> “Lease Linked to Eviction,” *Baltimore Sun*, Jan 2, 1967.

<sup>248</sup> Martin Green, “Resident Says her Eviction is Forced by Picketing Kin,” *Baltimore Sun*, Jan 10, 1967.

assertion that management was “intimidating” her into silence while her daughter was actively and maliciously attempting to intimidate potential black residents to keep them from moving into O’Donnell Heights.

In January 1967, while Gosnell and others were distributing flyers and picketing, no black people had yet applied for housing at O’Donnell Heights. That changed in the spring, as HABC unveiled a new program meant to encourage black applications to the three all-white projects. First, intake officials would actually tell black applicants to public housing that the three projects were available to them, with the caveat that the interviewer would “point out the family’s best opportunities for housing within a reasonable time.” Next, applicants would have a group meeting and tour of the “traditionally white neighborhoods” around Brooklyn, Claremont, and O’Donnell, and discuss the opportunities presented by moving to such areas. The meeting and tour would last three hours, a significant demand of their time.<sup>249</sup> If applicants did not attend the group meetings, intake officials would attempt to meet with them individually, with the unwritten insinuation that those who resisted these meeting attempts would not be considered as having completed the application process. As the final step, applicants had to submit to a home visit by HABC officials to their current residences.<sup>250</sup> In this fashion, HABC hoped to avoid being seen as mandating desegregation, while ensuring enough desegregation to satisfy HUD’s requirements. Officials could continue to present their actions as simply allowing black residents “freedom of choice,” rather than of having actively engineered their relocation into white projects.

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<sup>249</sup> Memorandum from Branch to Embry, Oct. 16, 1968.

<sup>250</sup> Memo Esther Frank Siegel to Van Story Branch, Dec. 6, 1967, Series 3, Plaintiff Exhibits, Box 5, Exhibit 154, ACLU.

Esther Frank Siegel was one of many who performed the visits to applicants' homes. Her notes and report to HABC Housing Director Van Story Branch have an air of middle-class progressive paternalism, grading both the applicants and their homes. Of one Mrs. Jessie Bell, a black applicant to Claremont, Siegel wrote, "We visited her home in the country on November 21 and it is one of a group of dilapidated single homes close to the water. Like Mrs. Bell herself, the house was meticulous."<sup>251</sup> Siegel took great care to describe both the misery of Bell's situation, and the ways in which Bell managed to adhere to middle-class values despite her poverty. Siegel's report seemed unaware that she objectified Bell, drawing parallels between the applicant's meticulously kept but dilapidated house, and the meticulously kept but dilapidated person. Siegel's other reports show additional benevolent racism. For example, in another report to HABC Director Branch, Siegel described three black families who attended a group meeting for potential applicants. She described Mrs. Joseph Fortune as, "being alert and mature." Of Mr. and Mrs. Isaiah Banks she wrote, "They are young but they appear alert and able." She reported that Mr. and Mrs. James Little "appeared alert and they were immaculate," and said that their home visit "disclosed children and home as neat and tidy as the parents."<sup>252</sup>

In the final preparations for the first black tenants to move into O'Donnell Heights and Brooklyn Homes in the summer of 1967, HABC paid installation fees and twelve months of telephone services for the new tenants. Director Branch said to the *Sun* that the telephones were provided so the black residents could call for help if they encountered "organized opposition." Earlier in the summer, Ku Klux Klan members had rallied outside the projects, activity that the *Sun* downplayed as "anti-Negro organizations picket[ing]." Even with the Klan actively present,

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<sup>251</sup> Memo Esther Frank Siegel to Van Story Branch, Current Status of Referrals to Claremont, November 22, 1967, Series 3, Plaintiff Exhibits, Box 5, Exhibit 154, ACLU.

<sup>252</sup> Memo Esther Frank Siegel to Van Story Branch, Group Meeting – November 21, 1967, Series 3, Plaintiff Exhibits, Box 5, Exhibit 154, ACLU.

the newspaper reported that integration was a success, since the “majority” of white tenants “showed no particular reaction.” The *Sun* quoted HABC official David Filker saying that at first, officials “were afraid perhaps that was just apathy,” but that white families had proven to be “intelligently responsive to the change.” Despite the evidence of Klan resistance, in August, Director Branch declared the “period of crisis” was over.<sup>253</sup>

Branch’s optimism proved premature, as Klan members returned to the Brooklyn Homes housing project in September 1967. For three nights in a row, Klansmen rallied outside the house of Shirley Rivers, a black mother who lived in Brooklyn Homes with her three preschool-aged children. On the third night of their demonstrations, 25 Klan members led a march down the block in front of a gathered crowd of 350 people, while ten members of the Congress of Racial Equality stood watch outside Rivers’ front door. Though police had been present for the first two nights, it was only on the third that they acted, arresting fourteen men, including a “self-proclaimed exalted cyclops” and charging them with disorderly conduct.”<sup>254</sup> Overt demonstrations against integration in the projects ended.

Despite intimidation by the Klan, the HABC continued to make real efforts to encourage black applications to the all-white projects. In working to identify prospective black residents to move into Claremont, HABC reviewed applications, made home visits for interviews, and invited prospective residents to attend group meetings and tours. Once again, reports from these efforts discredit the agency’s repeated claims that black people simply were not interested in living in Claremont, O’Donnell, or Brooklyn Homes. Of Mrs. Geraldine Pate, the intake official wrote she was “very eager” to live in Claremont, but if she could not get a unit there, she would consider O’Donnell. Her original choices of the majority-black Latrobe, Perkins, and Douglass

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<sup>253</sup> Keidel, Jane L. “Negroes Given Free Phones in Case of ‘Crisis’,” *Baltimore Sun*, Aug. 6, 1967.

<sup>254</sup> “Arrests End Marches at Negro’s Home,” *Baltimore Sun*, Sep. 7, 1967.

had fallen to the bottom of the list. In fact, Claremont Homes was so popular with black applicants that a memo recommended foregoing the tours of Claremont until the “desired number” (20 to 25) of black residents had moved into Brooklyn.<sup>255</sup> In so doing, HABC was acknowledging for the first time that giving black applicants true choice would lead to black people integrating the remaining all-white projects, and that withholding knowledge of that option would again passively push black residents into other project sites.

Despite desegregation becoming the official policy in Baltimore public housing in 1954, more than a decade later, the city’s housing projects remained clearly divided along racial lines. Even so, in 1967, Branch proclaimed, “Even with the tension in all the other cities we took a bold step and succeeded.”<sup>256</sup> That Branch, who was himself black, would declare such token desegregation to be a success is in part a result of the racial tensions that erupted in the 1967 Detroit riots, but also a measure of how long other HABC officials had allowed de facto segregation to remain after officially “desegregating.”

Though pushed to action by HUD in 1967 to begin to moving black families into the remaining majority-white projects, HABC continued to insist on maintaining its “freedom of choice” plan, absolving the housing authority of responsibility for dismantling the system of residential segregation inherent in the city and its public housing. HUD would seek to further affirmatively address the continued segregation present in Baltimore and other housing authorities across the country as the decade came to a close, as the coming chapters will discuss.

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<sup>255</sup> Memo Esther Frank Siegel to Van Story Branch, Dec. 6, 1967, Series 3, Plaintiff Exhibits, Box 5, Exhibit 154, ACLU.

<sup>256</sup> Keidel, Jane L. “Negroes Given Free Phones in Case of ‘Crisis’,” *Baltimore Sun*, Aug. 6, 1967.

## **5 CHAPTER FOUR: FIRST COME – FIRST SERVED**

The Housing Authority of Baltimore City (HABC) operated its projects under an unrestricted “freedom of choice” plan from 1954 to 1966. In that year, following investigation by the United States Department of Housing and Urban Development (HUD) into three of the city’s housing projects that maintained 100 percent white occupancy, the HABC created a system of group interviews and began actively encouraging black applicants to the white projects—a process detailed in the previous chapter. Despite these changes, HUD soon released new requirements nation-wide in an attempt to fully desegregate the country’s housing projects through a centralized and regulated system of application tracking and mandated procedures for the assignment of housing units to public housing applicants. While the HABC was unsuccessful in its initial attempts to avoid the new requirements altogether, local officials used the language of choice to argue for, and eventually gain, HUD acceptance of a plan that subverted the new requirements to the point of irrelevance.

HABC’s measures to finally integrate the all-white projects of Brooklyn, Claremont, and O’Donnell in 1966 proved too late to stave off additional federal involvement. By 1967, HUD recognized the need for an updated national policy regarding racial segregation rather than continuing to allow the patchwork of locally adopted “freedom of choice” plans, which had resulted in many projects remaining segregated. In a 1967 memo describing the issues with “freedom of choice” desegregation, HUD officials could have been speaking directly to the situation in Baltimore. The memo referenced projects wherein the buildings used predominantly by one race (generally black) had vacancies while applicants of another race (generally white) lingered on waiting lists, a clear example of institutional acceptance of continued segregation.

Although HUD noted, “Even without inducement of Local Authority staff, the plans tended to perpetuate patterns of racial segregation,” the *Baltimore Afro-American* newspaper published complaints that HABC officials were exacerbating the problem.<sup>257</sup> As one article explained, the HABC administration of “free choice” included the option for applicants to wait indefinitely before accepting an available housing unit. In addition to enabling white applicants to wait until units in all-white buildings came available, the *Afro-American* claimed officials were likewise holding back black applications until units were available in all-black buildings, a practice that was not specifically prohibited by federal law. “Although never the announced policy,” the *Afro-American* stated, “the practice in public housing... was to re-inforce segregated housing.”<sup>258</sup> Thus, while HABC claimed that continued segregation in housing was a result of individual choices by public housing residents, black and white, the system only truly offered such a choice to white residents.

Also in 1967, HUD Secretary Robert Weaver wrote to the Special Counsel to the President to report on the department’s compliance with Title VI of the Civil Rights Act of 1964, which prohibited discrimination based on race in federally financed programs, including public housing. One problem HUD faced in complying with Title VI regulations was the regulations themselves—while they prohibited the type of discrimination inherent in segregated projects, “They do not direct affirmative action to integrate housing.” In the report, Weaver chose his words carefully; rather than discussing the number of desegregated projects, he referred to those that were “nonsegregated”—meaning at least one family was of a different race, but meaningful desegregation was not necessarily achieved within the project. While this categorization is no

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<sup>257</sup> Department of Housing and Urban Development, “Basis for Revised Requirements for Administration of Low-Rent Housing Under Title VI of the Civil Rights Act of 1964,” Series 3, Plaintiff Exhibits, Box 5, Exhibit 151, ACLU.

<sup>258</sup> “First Come, First Served,” *Afro-American*, July 29, 1967.



longer used today, it served an important purpose for Weaver to be able to acknowledge that token measures to eliminate strict segregation did not rise to the level of desegregation. Even under this expansive definition of “nonsegregation,” Weaver reported, only 19 percent of federally-assisted low-income housing projects were nonsegregated in 1962, and only 30 percent by 1964.

These low rates of nonsegregation grew directly from the classically liberal policies of free choice, which Baltimore and other local housing authorities had adopted. According to Weaver, however, “HUD has now determined that this [freedom of choice policy] is not feasible,” and was preparing to issue new instructions to local housing authorities by 1967. These new guidelines would require local authorities to maintain system-wide waiting lists of public housing applicants and assign tenants based on the order of application. They would also develop a safeguard against white applicants waiting indefinitely for vacancies in all-white projects by limiting the number of units an applicant could reject before being moved to the bottom of the waiting list.<sup>259</sup>

Director Ash had bragged at the 1955 Human Rights Day Institute in St. Louis that “The Baltimore Authority has not applied its policy [of desegregation] on the premise that integration must be achieved throughout the program, if this means that families are required to either live in particular projects or sacrifice their opportunities for housing;” yet it was exactly this type of plan that HUD would now mandate.<sup>260</sup> In July 1967, HUD released the new requirements for the administration of public housing, which the agency termed “First Come—First Served.” The new

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<sup>259</sup> Memorandum Robert Weaver to Harry C. McPherson, Jr., May 27, 1967, Series 3, Plaintiff Exhibits, Box 6, Exhibit 171, ACLU.

<sup>260</sup> Ellis Ash, Speech entitled The Baltimore Story: An Account of the Experience of the Housing Authority of Baltimore City in Developing and Applying a Desegregation Policy to its Low-Rent Public Housing Program, Dec. 9, 1955, Series 3, Plaintiff Exhibits, Box 5, Exhibit 139, ACLU.

plan intervened in two significant ways: first, local authorities would be required to maintain applications on a community-wide basis rather than separate waiting lists for individual projects; and second, applicants must be offered housing in the order they applied, and in the project with the most vacancies, rather than holding back some applications to wait for openings in certain projects. Understanding that applicants could have legitimate reasons that were not based on Title VI-prohibited discrimination to avoid a given project, HUD allowed local authorities to offer up to three project placements before an applicant would be moved to the bottom of the waiting list.<sup>261</sup>

In addition to the new regulations, HUD distributed its “Basis for Revised Requirements” explaining the reasons for the new restrictions. In addition to noting that freedom of choice plans often “did not afford freedom of choice in fact,” the memo explained that placing the burden of desegregation on individuals did not acknowledge how long-standing patterns of segregated housing affected the ability of individuals to make such choices. Whether due to internal factors, fear of reprisal by the community, or inducement by the local authority, placing the onus on individual housing applicants without providing institutional support to overcome the systemic patterns and pressures of racial discrimination, “did not provide applicants with actual freedom of access to, or full availability of, housing in all projects and locations,” according to HUD. In this statement, the federal agency was acknowledging both that systemic discrimination limited the type of choice lauded by proponents of liberalism, and that it was the responsibility of the government to step in and rectify such a situation. The memo did stop short of claims that local authorities were purposefully maintaining segregation, specifically stating, “Even without

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<sup>261</sup> Letter from Don Hummel to Local Authorities, Revised Requirements for Administration of Low-Rent Housing Under Title VI of the Civil Rights Act of 1964, July 10, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 179, ACLU.

inducement of Local Authority staff, the [freedom of choice] plans tended to perpetuate patterns of racial segregation.” Indeed, HUD recognized that the long-standing segregated housing pattern, “was in itself a major obstacle to true freedom of choice.” This pivot in responsibility, from offering choices to offering *meaningful* choices, is an important one. For the first time, the agency acknowledged that “few applicants have the courage to make a choice by which they would be the first to change the pattern.” Instead of blaming black applicants for not applying to all-white projects, the agency placed responsibility on local authorities to change the pattern on an institutional level—a major shift from the rhetoric of liberalism and individual choice.

In changing the policy, HUD allowed local authorities to request a waiver from compliance, provided the authority could prove that they had already achieved “substantial desegregation” and maintained low vacancy rates in all of their projects. While Weaver had earlier referred to “nonsegregation” as residency by one or more members of another race, the “substantial desegregation” needed for a waiver required “at least two-thirds of the housing projects...desegregated on more than a token basis.” Furthermore, the local authority had to show that following the new requirements would likely cause even more segregation and lower occupancy than the authority’s current plan.<sup>262</sup> In the case of Baltimore, the *Afro-American* referred to these tasks as “proving the unprovable,” but that did not stop the HABC from trying.<sup>263</sup>

When HABC staff leadership received their copy of the new HUD regulations, they immediately wrote a response to Vincent Marino, Assistant Regional Administrator for HUD.

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<sup>262</sup> Memo Robert Weaver to Harry C. McPherson, Jr., May 27, 1967, Series 3, Plaintiff Exhibits, Box 6, Exhibit 171; Letter from Don Hummel to Local Authorities, Revised Requirements for Administration of Low-Rent Housing Under Title VI of the Civil Rights Act of 1964, July 10, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 179, ACLU.

<sup>263</sup> “First Come, First Served,” *Afro-American*, July 29, 1967.

The Baltimore agency took umbrage at the creation of new regulations, complaining they were created with a “presumption” that local programs were not complying with Title VI, and a “supposition...that discrimination does in fact exist” in the tenant assignment policies. In contrast, HABC officials insisted their program had, “operated free of discrimination under its voluntarily adopted policy of desegregation since 1954.” HABC also rejected the notion that the freedom of choice plan had allowed tenants “the privilege to express a preference” for specific projects. While HUD was requiring substantial desegregation to be in compliance with Title VI, HABC was purposely conflating a lack of mandated discrimination with desegregation.<sup>264</sup> Just months before, HABC had maintained three projects without a single non-white resident, yet they continued to claim this was due only to tenants having the “privilege” of determining where they wanted to live.

The letter repeatedly reiterated the HABC’s emphasis that “choice” was the only factor causing the still-segregated projects. Although, as described in the last chapter, the HABC only undertook limited desegregation of the Claremont, Brooklyn, and O’Donnell projects after HUD threatened to tie up funding for the Charles Center commercial urban renewal project, the letter told a much different story, stating repeatedly that the agency took “extraordinary measures,” completely “voluntarily,” to find black residents to move into the all-white projects. The officials wrote that more than 2,000 applications were reviewed, but failed to mention the stringent requirements for family size, marital status, and income—over and beyond those agency-mandated requirements for housing—to which those applicants were subjected. Officials also claimed they had to “motivate and encourage” applicants to accept residency in the three projects, despite evidence to the contrary; once project space was made explicitly available,

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<sup>264</sup> Draft letter from BURHA to Vincent Marino, Assistant Regional Administrator for Housing Assistance at HUD, August 4, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 180, ACLU.

black applicants willingly expressed preference for assignment to the all-white projects. Under the new regulations, HABC would no longer be able to hand-pick the few black families living in the white projects; yet, in their retelling, the policy changes would be problematic, as officials would no longer be able to take their voluntary, extraordinary measures to encourage black applicants “to accept occupancy in those projects where they had not previously lived.”<sup>265</sup>

The HABC letter also lamented that the new regulations would anger and scare off white applicants who were already shying away from the housing projects. At the time, only 319 of the 2,714 active applications on file were from white families—just shy of 12 percent. This disparity is even more significant in the context of the overall decline in applications, shown below.<sup>266</sup>

*Table 1 Percentage White Applicants to HABC Public Housing, 1950-1967*<sup>267</sup>

Year	Total # of Applicants	# White Applicants	% White Applicants
1950	5,882	2,563	43.57%
1960	3,674	1,309	35.63%
1967 (7 months)	2,714	319	11.75%

While the ranks of black applicants on public housing waiting lists swelled as a result of urban renewal demolition, the numbers of white applicants simultaneously dropped due to distaste for desegregation and the pull of the federally-subsidized lily-white suburbs. Because the new HUD regulations mandated assigning housing to applicants based only on the order in

<sup>265</sup> Draft letter from BURHA to Vincent Marino, Assistant Regional Administrator for Housing Assistance at HUD, August 4, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 180, ACLU.

<sup>266</sup> The claim of 12% white applicant rate should be viewed with some skepticism. The following year, Van Story Branch reported to Robert Embry that in 1966, 16% of applications received were from white families, and in September 1968 that number had actually increased to nearly 20%.

<sup>267</sup> Created from data in Draft letter from BURHA to Vincent Marino, Assistant Regional Administrator for Housing Assistance at HUD, August 4, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 180, ACLU and Memorandum from Van Story Branch to R. C. Embry, Requirements for Administration of Low-Rent Housing Under Title VI of the Civil Rights Act of 1964 - Selection of Applicants and Assignment of Dwelling Units, Oct. 16, 1968, Series 3, Plaintiff Exhibits, Box 5, Exhibit 162, ACLU.

which they applied, HABC rightly noted that the new regulations would lead to approximately nine out of ten housing referrals being for black applicants. Even so, HABC's characterization that the regulations would "mean that, by and large, only Negro applicants will be referred to any vacancy" distorts that truth.<sup>268</sup>

The HABC also argued that compliance with waiver requirements in the new regulations would likely cause an increase in vacancy rates. In their letter to Marino, officials warned of the potential that "a large number of non-white applicants are unwilling...to move to the most recently integrated projects." Similar to their exaggeration of the effort needed to "motivate and encourage" black applicants to Claremont, Brooklyn, and O'Donnell, this line of reasoning understated the willingness of black residents to move into all-white projects as long as they were provided institutional support from potential white hostility. The officials also warned that if the black applicants "should eventually agree to accept such vacancies" in the white projects, "it is highly possible that integration could disappear all together [*sic*] and a complete non-white occupancy result" as it had in Lafayette Homes and Flag House Courts. Officials were thus arguing that complying with the new regulations would either lead to an increase in vacancies or a decrease in the limited level of integration they had thus far achieved. In effect, the HABC's request for a waiver was truly an attempt to maintain unofficially segregated projects for white residents in an effort to keep any white residents in the public housing system at all.<sup>269</sup>

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<sup>268</sup> Draft letter from BURHA to Vincent Marino, Assistant Regional Administrator for Housing Assistance at HUD, August 4, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 180, ACLU.

<sup>269</sup> Ibid. Despite all of the careful drafting of the response to HUD Assistant Regional Administrator Vincent Marino, HABC staff needed board approval to send the letter. When presented at the August 22, 1967 Housing Commission meeting, Chairman Eugene M. Feinblatt complained about the letter's emphasis on the impact of the new assignment policy on vacancy rates and integration. Instead, minutes from that meeting note, "The Chairman stated that the Commission is more concerned about freedom of choice and that the reason for requesting a waiver of this policy is the philosophy of a person having the right to choose his place to live. He requested that the letter be re-oriented along this line." (Minutes from HABC Commission-Staff Discussion, August 22, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 156, ACLU.)

Despite HABC's immediate request for a waiver from the new regulations, its application languished for nearly a year before being denied. HABC officials were then left facing two choices: Plan A, in which an applicant's refusal to move into the first available housing unit would place them at the bottom of the waiting list, or Plan B, in which applicants could reject three placements before moving to the bottom of the list. In a memo laying out the situation, Van Story Branch repeated many of the same claims from the original letter to HUD. First and foremost, HABC officials declared, "the Local Authority has been operating free of discrimination under its voluntarily adopted policy of desegregation."<sup>270</sup> Conflating the lack of overt discrimination with success in desegregation was key to understanding the HABC "freedom of choice" policy. This conflation actually had legal precedent—in the decision of *Brown II*, the Supreme Court's 1955 follow-up ruling to the previous year's *Brown v. Board* case, the court defined desegregation as the operation of a "racially nondiscriminatory school system."<sup>271</sup> As with the absence of a defined difference between desegregation and integration, no distinction yet existed between lack of discrimination and actual desegregation. Title VI of the 1964 Civil Rights Act repeated this problem, prohibiting discrimination without directing affirmative effort to actively integrate, a problem that HUD itself lamented as limiting their effectiveness in ending patterns of housing segregation.<sup>272</sup>

By removing the policy of mandated segregation, the HABC reached the bar of "nondiscrimination," and was thus able to justify any remaining segregation as a result of individual choice. This line of thinking, made explicit as early as the 1955 Human Rights Day

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<sup>270</sup> Memorandum from Branch to Embry, Oct. 16, 1968.

<sup>271</sup> David J. Armor, *Forced Justice: School Desegregation and the Law*. (New York: Oxford University Press, 1995), 24.

<sup>272</sup> Memorandum from Robert C. Weaver to the Honorable Harry C. McPherson, Jr., Accomplishments and Problems in Achieving Compliance with Title VI, May 27, 1967, Series 3, Plaintiff Exhibits, Box 6, Exhibit 171, ACLU.

speech, was also seen in school segregation cases including *Briggs v. Elliott* in 1955. On appeal following *Brown v. Board*, the District Court found that *Brown*, “has not decided that the states must mix person of different races...or must deprive them of the right of choosing the schools they attend,” but that so long as schools were open to children of all races, “no violation of the Constitution is involved even though the children of different races voluntarily attend different schools.” The District Court decision in *Briggs* became an important piece of case law for school segregation challenges following *Brown* and *Brown II*, explicitly for its grounding in the idea of free choice:

Nothing in the Constitution or in the decision of the Supreme Court takes away from the people freedom to choose the schools they attend. The Constitution, in other words, does not require integration. It merely forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental powers to enforce segregation.<sup>273</sup>

HABC officials indirectly referenced this determination in the response to their waiver application denial, which described their “existing non-discriminatory plan of tenant selection.” Even here, though, officials continued to belie their claims of nondiscrimination and truly voluntary segregation. In detailing the current application procedure, Branch wrote, “Applicants are given a choice where they wish to live although they are advised of the reality or unreality of their choices in terms of being housed within a reasonable time.” While Branch failed to go into specifics about what applicants were advised, this question of the “reality or unreality” of being placed quickly as justification for continued lack of black applicants to white projects was in direct contrast to the actual vacancy rates in the white projects, which were substantially higher than those for majority-black projects from 1966-1967.<sup>274</sup>

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<sup>273</sup> *Briggs v. Elliott*, 132 F.Supp. 776, (EDSC 1955).

<sup>274</sup> Memorandum from Branch to Embry, Oct. 16, 1968.



*Table 2 Vacancy Rates by Project, 1966-1968* <sup>275</sup>

	7/11/66 – 6/30- 67	7/1/67 – 6/30/68
Latrobe	1.02%	0.84%
McCulloh	0.17%	0.17%
Perkins	1.16%	1.36%
Douglass	1.04%	1.06%
Gilmor	0.66%	0.82%
O'Donnell	5.36%	2.69%
Somerset	1.55%	0.67%
Cherry Hill 2-11	1.01%	1.13%
Cherry Hill 2-12	0.96%	1.07%
Cherry Hill 2-17	0.74%	0.67%
Fairfield	2.41%	2.31%
Lafayette	2.00%	1.65%
Flag House	1.59%	2.14%
Brooklyn	4.73%	2.05%
Westport	1.25%	1.37%
Westport Ext.	1.04%	0.75%
Lexington	1.06%	0.86%
Murphy	0.38%	1.09%
Claremont	0.68%	0.99%
<b>Average</b>	1.67%	1.29%

HABC officials insisted that “good occupancy patterns had been established,” referring to the low overall vacancy rates in the city’s public housing projects. All but one of the project sites had vacancies within the allowable HUD-mandated threshold of 5 percent during the 1967 budget year; only O’Donnell exceeded the limit at 5.36 percent, though Brooklyn came close at 4.73 percent. The vacancy rates at these two majority-white projects dropped by half the following year, to 2.69 percent and 2.05 percent, respectively. HABC officials claimed credit for

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<sup>275</sup> Reproduced from Memorandum from Branch to Embry, Oct. 16, 1968.

this change as proof that their freedom of choice policy worked, writing, “It would appear then...that in giving applicants a choice, we reduce our vacancy rate.” This statement ignored, however, that the drop was only made possible because of new efforts to actively attract black applicants to those projects where, by design or by circumstance, they had previously felt unwelcomed. Prior to the implementation of the group interview program, officials had insisted that specifically encouraging black applicants to pursue residency in the white projects would be inappropriate interference in the opportunity for free choice. Now, facing further federal intervention, those same officials claimed credit for implementing the group interviews, insisting the program was necessary to allow applicants a choice. Moreover, despite the significant decrease in vacancy rates in O’Donnell and Brooklyn by August 1968, these now “desegregated” projects were still overwhelmingly white.<sup>276</sup>

*Table 3 Black Families in Public Housing Residence, 1967-1968* <sup>277</sup>

	# Black Families June 1967	% Black Families June 1967	# Black Families August 1968	% Black Families August 1968
O’Donnell	10	1.1%	55	6.1%
Brooklyn	8	1.6%	19	3.8%
Claremont	0	0.0%	18	6.1%

The significant decrease in vacancies in the majority-white projects was especially important when viewed in light of the dwindling numbers of white applicants to public housing, both in Baltimore and across the country. The HABC maintained that the new requirements for “first come—first served” assignments would scare off even more white applicants, and thus

<sup>276</sup> Memorandum from Branch to Embry, Oct. 16, 1968.

<sup>277</sup> Based on data from Memorandum from Branch to Embry, Oct. 16, 1968.

increase segregation through wholesale abandonment of the public housing system by white families. Officials argued that such a prospect would “defeat...the intent of the Civil Rights Act,” insisting that three essentially all-white projects were acceptable to avoid losing white residents across the public housing system overall. The HABC memo noted that despite “conscious efforts to stimulate applications from white families,” the numbers of white applicants continued to diminish.

*Table 4 Public Housing Applicants, 1950-1968* <sup>278</sup>

Year	Total Number of Applicants	White	Black
1950	5,882	2,563	3,319
1955	7,705	1,846	5,859
1960	3,674	1,309	2,352
1965	4,706	1,055	3,651
1966	4,930	807	4,123
1968 (9 months)	2,561	510	2,051

Brooklyn and O'Donnell had maintained the highest vacancy rates within the HABC system even as white applications dwindled, meaning officials had either consciously held out vacancies to entice white applicants to remain in the public housing pool, or had accepted that fewer white applicants would necessarily mean higher vacancies in the white projects. Whatever the reason, the effect was that as soon as residency was opened to black applicants through the affirmative interview program, vacancy rates dropped.<sup>279</sup>

In describing the interview process, officials continued to insist that while program staff would present applicants with information on all of the available projects, the decision “must rest

<sup>278</sup> Reproduced from Memorandum from Branch to Embry, Oct. 16, 1968, with the heading “Negro” changed to “Black”.

<sup>279</sup> Memorandum from Branch to Embry, Oct. 16, 1968.

with the applicant.” HABC officials repeatedly fell back on this type of language to emphasize supposed tenant agency while also absolving themselves from responsibility for the resulting segregation patterns. Although the HABC insisted that applicants were advised of the wait times for their preferred projects, the significantly higher vacancy rates in O’Donnell and Brooklyn strongly suggest that black applicants, consciously or unconsciously, were steered away from applying for those projects. Until 1966, officials insisted that the white projects had been “mentioned” but were rejected by black applicants. Once encouraged and supported through the group interview process and protection of a cohort system of black residents moving in simultaneously, the vacancy rates in these projects quickly dropped. Surprisingly, most of the white residents remained.<sup>280</sup>

Even with the lower vacancy rates, HABC officials needed to explain away the lingering segregation in their projects. First, they pointed to the location of O’Donnell, Brooklyn, and Claremont in “traditionally white neighborhoods” that were “away from the pulse and heartbeat of the CITY” [emphasis in original], echoing 1940s-era insistence that housing projected be located along the “traditional plan for the development of Baltimore city.”<sup>281</sup> Officials insisted that “unless a family has its roots” in those traditionally white neighborhoods, “they were not interested.” Of course, as in many cities, that these areas had remained racially exclusive was not a matter of chance but of specific, sustained effort by policymakers, local officials, and white residents.<sup>282</sup>

While the group interviews and cohort system had successfully served to bring some black families into the white projects, this outcome calls into question the housing authority’s

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<sup>280</sup> Ibid.

<sup>281</sup> Ibid., “FPHA Course Illegal, Says City Solicitor,” *Baltimore Sun*, Aug. 5, 1943.

<sup>282</sup> For more on the origins of residential segregation in Baltimore, see Garrett Power, “Apartheid Baltimore Style: The Residential Segregation Ordinances of 1910-1913,” 42 *Maryland Law Review* 289 (1983), 289-328.

commitment to choice. It is possible that despite showing no previous interest in the white projects, black applicants became independently and simultaneously interested at the time the HABC began group interviews and took advantage of the procedures HABC had in place allowing free choice; perhaps all it took was group meetings and a brief tour to solicit black applicants to the white projects, regardless of not having their “roots” in the area. What seems more likely is that black applicants had been steered away from the white projects as discussed, or they had not been given the opportunity to make an informed choice. The latter explanation seems most likely. As the memo from Van Story Branch, the highest-ranking black official of the HABC, emphasized, “If housing is going to prove meaningful in the lives of people...they must be exposed to alternatives,” and “above all they must, with the proper tools, make their own decisions.” It is worth noting, however, that Branch was suggesting the HABC had always offered, and thus should be allowed to continue offering “free choice,” while admitting the ways that the HABC had failed, whether through malice or neglect, to give residents the “proper tools” to make informed and meaningful decisions.

While officials had many complaints about and arguments against the first come-first served policy, their primary emphasis was still the necessity of choice. As Branch wrote in the HABC memo, choice was, in their view, “a necessary ingredient to self-respect.” “To threaten people who reject an already specified dwelling one, two or three times, and tell them they will ‘be placed at the bottom of the list,’ is unrealistic. It can also be disastrous,” Branch wrote, both in its effects on applicants’ self-respect, and on the public housing program budgets.<sup>283</sup> Housing officials were continually fretting about the effects of policies on the willingness of white residents to participate in public housing at all. If those applicants with qualifying but relatively

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<sup>283</sup> Memorandum from Branch to Embry, Oct. 16, 1968.

higher incomes stopped applying to public housing, the program would no longer be financially viable. The financial solvency of public housing was a constant struggle, due in large part to the very design of public housing subsidies, which paid for construction of housing projects while operations were to be funded through tenant rents. As early as 1953, HABC officials voiced concerns about the increasing number of black “welfare families” in the housing projects, whose federally mandated rents were too low to defray the cost of operations and maintenance for a housing unit. Part of the gap in rental rates was racial, due to the myriad factors influencing the wage gap between black and white Baltimoreans—the median income of white applicants in 1953 was \$3,051, but only \$2,160 for black applicants. Even before desegregation, the eligible white applicant pool was shrinking due to rising post-war prosperity for whites—in 1951, 41 percent of white applicants to Baltimore’s public housing were income-eligible, but by 1953, the number had dropped to 27 percent. Although the HABC raised income limits in 1953 in an attempt to capture more white residents whose higher rents would help balance their financial position, the timing of the *Brown* decision rendered their efforts moot.<sup>284</sup>

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<sup>284</sup> Rhonda Y. Williams, *The Politics of Public Housing: Black Women's Struggles Against Urban Inequality* (Oxford: Oxford University Press, 2004), 104-105.

HABC also made attempts to encourage applications from potential residents whose income came from employment rather than public assistance, with a spokesman stating in 1966 “we don’t want the projects to be ghettoized by having only the unemployed.” Despite these attempts, in 1969 the Housing Authority faced a \$212,481 budget shortfall and contemplated plans to increase the amount of rent charged. Shortly afterward, however, Congress reduced the calculation for rent due to 25% of household income. Though the federal government was meant to make up the difference, subsequent budget appropriations failed to materialize. At the same time, federal regulations required that income from rents cover 85% of operating costs in public housing developments. Combined with policies which mandated displaced families be priority recipients of public housing placements, the economic distance between public housing residents and the private market continued to grow. The median income of public housing residents across the country fell dramatically from 1950 onward: from 64% of the national median in 1950, to 37% in 1970, and only 16% by 1995. (“Public Housing Seeks Employed,” *The Baltimore Sun*, Oct. 19, 1966; “Budget Entails a \$212,481 Deficit,” *The Baltimore Sun*, May 21, 1969; Frank P.L. Somerville, “Expenses Mount in Public Housing,” *The Baltimore Sun*, April 22, 1966; “Lower Rents Due in Public Housing,” *The Baltimore Sun*, May 27, 1971; Paul H. Wyche, Jr., “HUD’s Rescinding of Rules to Spur Housing for Elderly,” *Baltimore Afro-American*, June 17, 1972; Vernon Jordan Jr., “To Be Equal: There’s a Real Crisis Now in Public Housing,” *Baltimore Afro-American*, Jan 20, 1973; Edward G. Goetz, *New Deal Ruins: Race, Economic Justice, and Public Housing Policy* (Ithaca, N.Y.: Cornell University Press, 2013), 38.)

Having failed to receive a waiver from the new regulations despite their claims of nondiscriminatory administration, the HABC conceded to accept the first come-first served plan “if ‘location(s)’ and ‘undue hardship or handicap’ can be broadly interpreted.” It was this broad interpretation that was the true undoing of HUD’s plan. In administering the plan, HUD stated that applicants should be offered a vacancy in the “location that contains the largest number of vacancies,” and could refuse referral to three locations before being moved to the bottom of the waiting list. The regulations defined location as “any low-rent housing site...except that when sites are adjacent or within a block of each other, such sites collectively shall be considered one location.” HABC officials insisted, however, that to individually maintain appropriate records for all of their project locations would be “unwieldy.”

Instead, the authority asked to group together the individual projects into four “areas.” Applicants would then designate their preferred area, satisfying HABC’s desire to facilitate individual choice, and be offered a place in that area’s project with the highest number of vacancies. By modifying the plan thusly, HABC’s request stated, “We broaden the applicant’s opportunities for housing. He has already defined the area in which he will live, and he can still exercise choice.” The “area” plan would also loosen the requirement that applicants be given only three refusals before being moved to the bottom of the waitlist. HABC officials wrote, “The prediction is that [an applicant] will not find it necessary to reject three areas, whereas he might well reject three individual projects.”<sup>285</sup> Applicants could then decline placement an unlimited number of times within their specified area without counting toward their three refusals; the

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<sup>285</sup> Memorandum from Branch to Embry, Oct. 16, 1968.

three-strikes rule only came into play if an applicant refused placement in three of the separate housing areas.<sup>286</sup>

Although the four new “areas” were ostensibly determined by geographic boundaries, distances between projects far exceeded the one-block rule. Through the HABC’s loose definition of “nearby projects,” the majority-white O’Donnell Heights and Claremont Homes were grouped into the “East Location.” The third majority-white project Brooklyn Homes, too far to justify grouping with the others, became part of the “Southeast Location.” Thus, if white applicants specified a preference for the East Location, they would be guaranteed a placement in a majority-white project. If an applicant’s employment necessitated they live in the southern portion of the city, they could specify a preference for the southeast location and use their unlimited refusals until given a placement in Brooklyn Homes.

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<sup>286</sup> HUD Regional Office, Occupancy Audit, Housing Authority of Baltimore City, March 30-April 22, 1981, Series 3, Local Defendant Exhibits, Box 1, Exhibit 18, ACLU.



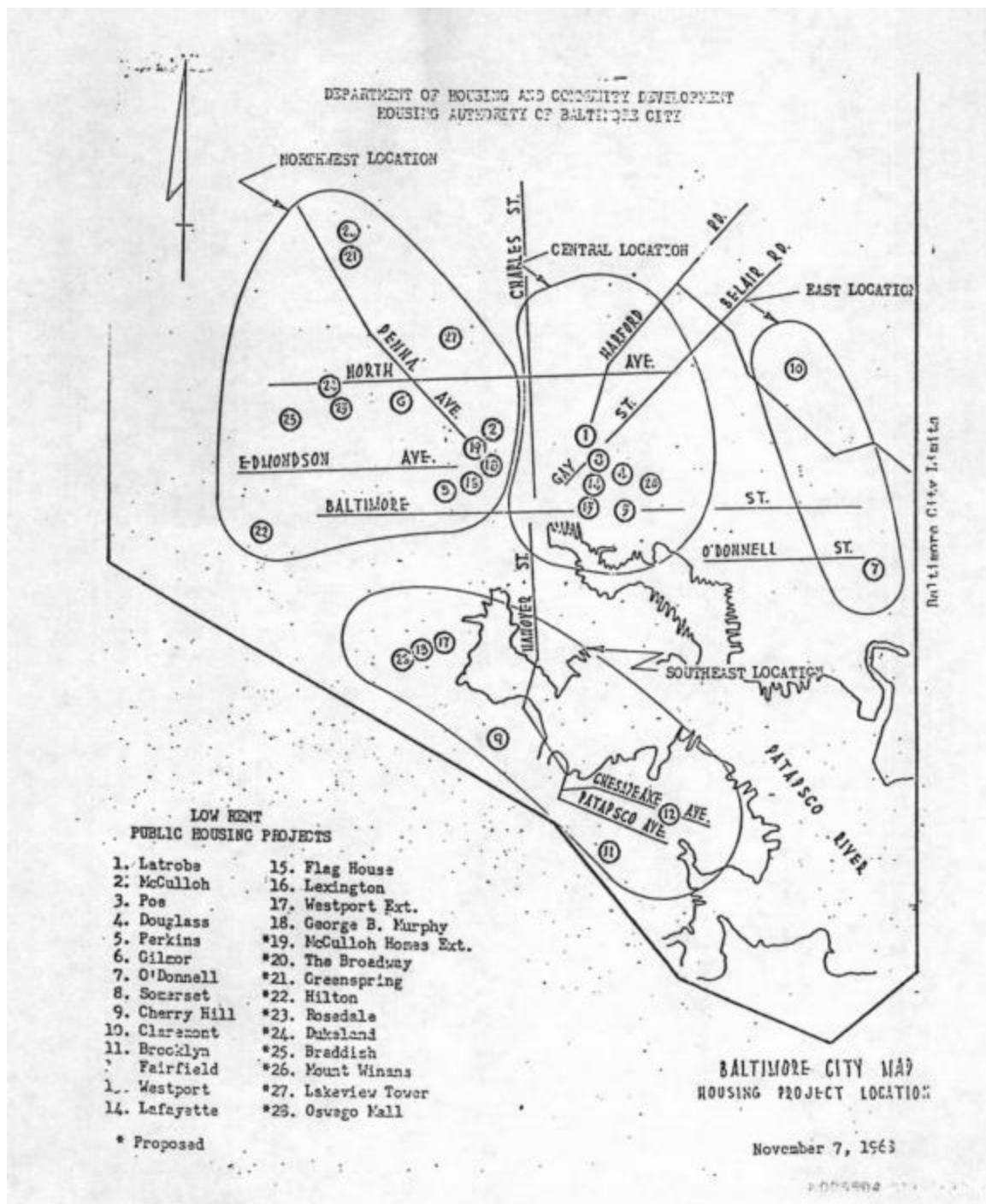


Figure 5.1 Baltimore City Map Housing Project Locations (as submitted to HUD, 1968)

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<sup>287</sup> Memorandum from R.C. Embry, Jr., Tenant Selection and Assignment of Dwelling Units, Dec. 5, 1968. Series 3, Local Defendant Exhibits, Box 1, Exhibit 1, ACLU.

The first come-first served plan also allowed for hardship waivers that would prevent refusal of a project placement from counting toward an applicant's three strikes. In the regulations, HUD gave examples of such hardships "not related to considerations of race, color, or national origin," including "inaccessibility to source of employment, children's day care, and the like." In their revision of the plan, Baltimore officials greatly expanded these parameters. Accepted hardships included not just proximity to employment and access to special educational resources, but also "being close to family or friends to whom one can take the children for care," "being close to a hospital, clinic or doctor, or church," and "being close to the familiar for emotional stability." Any of these could be effectively used to refuse housing outside of one's current, segregated neighborhood without the repercussion of losing one's place on the waiting list. While acknowledging that hardship claims could not be based on race, the HABC gave no specifics on how they would ensure that the claim was not a racialized one.<sup>288</sup> Despite these problems, HUD accepted the revised plan on January 17, 1969.<sup>289</sup>

Reporting about the new plan differed greatly from HUD's initial announcement of changes in 1967 to the approval of HABC's plan in 1969. When the *Afro-American* first announced HUD's new requirements, the paper described it as "nearly, but not quite, put[ting] public housing on a 'first come, first served' basis." At that time, the *Afro-American* was not shy about pointing out how the "freedom of choice" plan reinforced housing segregation.<sup>290</sup> Just a

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<sup>288</sup> Memorandum from Branch to Embry, Oct. 16, 1968.

This problem of determining underlying motives persisted - in a 1981 compliance report, HUD Area Manager Thomas Hobbs suggested to HABC Commissioner M.J. Brodie, "the Authority may wish to further address what steps will be taken when units in predominantly Black developments offered to eligible White applicants are refused solely because such complexes may not be among the client's choices." (Letter from Thomas R. Hobbs to M.J. Brodie, HABC Response to Monitoring Non-conformance with Title VI, Civil Rights Act of 1964, December 18, 1981, Series 3, Federal Defendant Exhibits, Box 3, Exhibit 421, ACLU.)

<sup>289</sup> Letter from Vincent A. Marino to Robert C. Embry, Jan. 17, 1969. Series 3, Plaintiff Exhibits, Box 5, Exhibit 163, ACLU.

<sup>290</sup> "First Come, First Served," *Afro-American*, July 29, 1967.

few months later, the paper reported on Atlanta's attempts to refuse the change, quoting Atlanta Housing Authority member Frank Etheridge who declared, "Let's test them (federal officials). We ought to spar with them awhile. We have a good chance of knocking them out."<sup>291</sup> By December 1968, the tenor of the *Afro-American's* reporting had changed significantly. Unlike the editorializing in the earlier articles, which clearly pointed to the hypocrisy of "choice," the headline of one article unironically proclaimed, "Wider choice okayed for public homes." The article itself hewed closely to the words of Housing Authority Chairman Feinblatt, and his claims that the federal government's required plans would have "arbitrarily" assigned residents to housing projects.<sup>292</sup> Still, when compared with the *Baltimore Sun's* reporting on the new policy, the *Afro-American* was hardly exuberant. While both newspapers quoted Feinblatt's claims, the *Sun* went further in espousing his views, heralding the new policy as "a plan to give applicants...more choice of a place to live than federal officials had wanted for them."<sup>293</sup>

Even as the HABC and HUD debated the specifics of Baltimore's plan, the fundamental basis of federal housing law changed with the Civil Rights Act of 1968, also known as the Fair Housing Act. The first piece of federal legislation to address racial discrimination in housing, the Fair Housing Act specifically prohibited private and public housing markets at all levels from practices that created and continued residential segregation. Unlike the previous non-discrimination rules put in place by the Executive Order 11063 and the 1964 Civil Rights Act, the Fair Housing Act directed federal agencies and grantees to act "affirmatively" to further fair housing policies, rather than simply requiring non-discrimination. Unfortunately, as a result of the many fights and horsetrading in Congress over the law, many of the enforcement provisions

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<sup>291</sup> "Atlanta Bucks HUD on Housing Change," *Afro-American*, Nov. 11, 1967.

<sup>292</sup> "Wider Choice Okayed for Public Homes," *Afro-American*, Dec. 21, 1968.

<sup>293</sup> "Public Homes Choice is Set: Housing Applicants to have Option of 3 Areas," *Baltimore Sun*, Dec. 18, 1968.

were stripped away, which meant that while HUD could investigate complaints of housing discrimination, it had no power to enforce remediation of offenses. For those cases that HUD did refer to the Justice Department for prosecution, the Attorney General was only authorized to act following evidence of “a pattern or practice” of discrimination or issues of “general public importance.”<sup>294</sup>

Even after all the debates and wrangling needed to force the HABC into a first come-first served policy, just two years later, HUD again announced proposed changes in tenant selection requirements to better align with the Fair Housing Act. While most of the 2,000 public housing authorities under HUD’s jurisdiction had adopted some version of the first come-first served plan, for most of them, the new measures had “not led to desegregation or to a decline in discrimination.” To the contrary, HUD wrote in a 1971 report, “Empirical observations show that racial segregation, and hence discrimination, are still the norm.”<sup>295</sup> Laurance D. Pearl, Director Program Compliance in the HUD Office of Fair Housing and Equal Opportunity, would later go on to describe the first come-first served policy as “vacancy conscious” rather than racially conscious, meant to “get a better use of the inventory” by encouraging the overabundance of

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<sup>294</sup> Much has been written on the Fair Housing Act, including Mara S. Sidney, “Images of Race, Class, and Markets: Rethinking the Origin of U.S. Fair Housing Policy,” *Journal of Policy History* 13 no. 2 (2001), 181-214; Robert G. Schwemm, ed. *The Fair Housing Act after Twenty Years* (New Haven: Yale Law School, 1989); Deborah Kenn, “Institutionalized Legal Racism: Housing Segregation and Beyond,” 11 *Boston University Public Interest Law Journal* 35 (2001); Jean E. Dubofsky, “Fair Housing: A Legislative History and a Perspective,” *Washburn Law Journal* 8 (1969), 149-66; and the special issue “Commemorating the 30th Anniversary of the Fair Housing Act,” *Cityscape* 4 no. 3 (1999).

Jonathan Zasloff disagrees with the characterization of the Act as lacking enforcement provisions in his article “The Secret History of the Fair Housing Act,” *Harvard Journal on Legislation* 53 (2016), 247-278.

The Fair Housing Act also features in nearly every history of twentieth-century America, but of particular note are Christopher Bonastia, *Knocking on the Door: The Federal Government’s Attempt to Desegregate the Suburbs* (Princeton: Princeton University Press, 2008); John Goering, ed. *Fragile Rights Within Cities: Government, Housing, and Fairness* (Lanham, Md: Rowman & Littlefield, 2009); Arnold R. Hirsch, *Making the Second Ghetto: Race and Housing in Chicago, 1940-1960* (Chicago: University of Chicago Press, 1998); Douglas S. Massey & Nancy A. Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge: Harvard University Press, 1993); and Thomas J. Sugrue, *Sweet Land of Liberty: The Forgotten Struggle for Civil Rights in the North* (New York: Random House, 2008).

<sup>295</sup> Assistant Secretary for Housing Management, Assistant Secretary for Equal Opportunity, HUD, Tenant Selection in the Public Housing Program, 1971, Series 3, Plaintiff Exhibits, Box 2, Exhibit 49, ACLU.

black applicants to accept units in majority-white projects. Though the policy was generally in line with the 1968 Fair Housing Act, its emphasis was not on eliminating racial disparity, but on “HUD’s administrative responsibility to see that public housing units were used in an effective and efficient way.”<sup>296</sup>

While the lack of impact can be blamed in part on the contents of the policy, HUD officials discovered soon after the adoption of “first come-first served” that many authorities had not actually complied with the requirements. Despite threats of programmatic funding cuts and fear of legal action leading to cities like Baltimore accepting the tenant selection system, other cities had not. Some, like Gadsden, Alabama, had never adopted an approved plan. Others, including Lake Charles, Louisiana, had adopted a plan in compliance with HUD regulations but failed to implement it. Still others, such as San Antonio, Texas, had adopted and implemented a first come-first served plan, only to then rescind the plan and reinstate “freedom of choice” in defiance of federal regulation.<sup>297</sup> In all of these cases, refusal by the Department of Justice to prosecute noncompliance left HUD with little recourse.

Those cities whose authorities did adopt, implement, and comply with the first come-first served plan faced stumbling blocks within the plan itself. In the 1971 report, HUD laid out many of these unforeseen issues, despite agencies including HABC using them as the basis for waiver requests. Among the foremost was the “rigidity” of the three strikes policy. HUD felt it necessary to limit the number of times an applicant could refuse a housing assignment, but officials soon discovered the policy had the effect of “discouraging” white applicants. While Baltimore had subverted the plan requirements through their 1969 waiver, the original regulations limited applicants to the projects with the highest number of vacancies. As the HUD

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<sup>296</sup> Laurance D. Pearl deposition, January 26, 1998, Series 3, Plaintiff Exhibits, Box 1, Exhibit 11, ACLU.

<sup>297</sup> Ibid.

report explained, if these vacancies were all in majority-black projects and white applicants who refused placement dropped to the bottom of the waitlist, this would further exacerbate the racial imbalance already caused by the preference for applicants displaced by urban renewal, a group that was overwhelmingly black. Combined with the dwindling numbers of white applicants to public housing projects as white flight to the suburbs intensified, these admission standards could have the effect of ensuring “that the waiting list, and, hence, the future of public housing in the city” was all-minority. Like in Baltimore, many other cities continued to find mechanisms that would in effect set aside some housing projects for white occupancy in order “to ensure that whites would not flee from public housing” altogether.<sup>298</sup>

The three-strike requirement affected minority applicants as well. If all three of the projects with the greatest number of vacancies were in undesirable locations, those black families who were able would likely either refuse and drop to the bottom of the waiting list, or find other accommodations outside of public housing. This would result in a waiting list “composed exclusively of minority group families who are multiproblemated.”<sup>299</sup> In addition, vacancy rates in more desirable projects would rise as authorities were forced to refer repeated applicants to undesirable locations with higher vacancy rates until the point that the vacancies equalized. This could well lead to an increase in vacancies system-wide and have disastrous effects on the amount of operating income collected from tenant rents.<sup>300</sup>

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<sup>298</sup> Ibid.

<sup>299</sup> In fact, a 1979 HUD report “Problems Affecting Low-Rent Public Housing Projects” seeking to explain the problems undermining public housing operation found that the concentration of multi-problem families within the housing program was a key contributing factor. One field office in the study reported “The problems arose as a result of poor placement of tenants by PHA [public housing authority], i.e.; grouping very low income multi-problem families together” along with problems of maintenance and security. (Ronald Jones, David Kaminsky, and Michael Roanhouse, “Problems Affecting Low-Rent Public Housing Projects: A Field Study,” US Department of Housing and Urban Development Office of Policy Development and Research, January 1979, 79).

<sup>300</sup> Ibid.

HUD announced proposed revisions to the first come-first served policy in 1971 as a result of these continued issues. In the new policy, all “rigid procedural requirements” for tenant selection were removed, and the method of administration for Title VI compliance was left “to the local authority, and to it alone.” Rather than strict rules and procedures to assure desegregation, HUD would create performance standards to measure success in achieving “nondiscrimination,” a much lower bar. These performance standards were to be based “largely on occupancy ranges and timetable” reflective of “the racial characteristics of project occupancy, the user group population, and the general population of the locality,” a move that would account for white flight out of public housing. The announcement stated that the policy would have “many advantages,” including minimizing HUD’s oversight, which would now be “limited to examining and approving the ranges and timetables,” reviewing progress reports, and providing guidance where needed. Local authorities could enjoy “the utmost flexibility to tailor their procedures” to their local circumstances, which would “involve them in a positive manner in the selection of both means and ends,” and “give them a greater sense of control” over their local programs.<sup>301</sup>

HUD’s announcement concluded that “for the first time, there would be stated goals for anti-discrimination, and a way to evaluate success in meeting those goals”—an emphasis on the end results rather than the process. Despite having spent years struggling to convince and admonish local housing authorities into abiding by the rules of Title VI, the federal government now predicated its new policy upon the idea that the authorities would willingly create and implement necessary procedures to end discrimination in their housing projects. The local housing authorities of San Antonio and Lake Charles, both of which had been called out by name

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<sup>301</sup> Ibid.

in HUD's memo for refusing to comply with first come-first served policy, were held up as examples of locations where officials "found that the new policy was strongly welcomed as a realistic approach to the problem of segregated occupancy," despite not yet having any indication that the increase in flexibility had any positive effects on lessening segregation in either city. Even still, this flexibility and focus on measuring results rather than procedural compliance, HUD officials wrote, would "benefit both HUD and the Authorities, as well as the residents of the housing." Tellingly, though, the memo noted, "We do not believe that HUD can delay much longer" in implementing a new policy due to a "spate of litigation" related to tenant selection and segregation in public housing. These included *Gautreaux* in Chicago, *Blackshear* in Austin, and *Taylor v. City of Millington* in Tennessee.<sup>302</sup> Just as HABC officials had fretted in 1954 about the possibility of a lawsuit leading to a judicially-mandated desegregation policy, in 1971, HUD feared that a delay in changing the tenant selection requirements would lead to "a new policy set by the judiciary over which we have no control."<sup>303</sup>

This emphasis on being "results-oriented" was more than an attempt to shift responsibility away from HUD and onto local housing authorities; it marked a major shift in federal policy. On June 11, 1971, President Richard Nixon released a statement outlining his administration's approach to fair housing, in which he called for policy that was "results-oriented so its progress toward the overall goal" could be evaluated. In this statement, Nixon likewise emphasized that the problems facing public housing administrations were "uniquely local in nature," and thus the federal government should be limited in its interference with those policies.

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<sup>302</sup> *Gautreaux v. Chicago Housing Authority* 304 F.Supp. 736 (1969) and *Gautreaux v. Romney* 448 F. 2d 731 (1971) which would become *Hills v. Gautreaux*, 425 US 284 (1976); *Blackshear Residents Organization v. Romney*, 472 F. 2d 1197 (1973); *Taylor v. City of Millington* 476 F. 2d 599, 600 (1973).

<sup>303</sup> Assistant Secretary for Housing Management, Assistant Secretary for Equal Opportunity, HUD, Tenant Selection in the Public Housing Program, 1971, Series 3, Plaintiff Exhibits, Box 2, Exhibit 49, ACLU.



While Nixon insisted, “Denial of equal housing opportunity to a person because of race is wrong, and will not be tolerated,” he simultaneously reasserted HUD’s original emphasis on choice and expressed support for the “voluntary efforts” that had already taken place toward “correcting the effects of past discrimination.” Finally, the president restated his administration’s goal of “a free and open society,” by which he meant one of “open choices.” He wrote:

In speaking of “desegregation” or “integration,” we often lose sight of what these mean within the context of a free, open, pluralistic society. We cannot be free, and at the same time required to fit our lives into prescribed places on a racial grid—whether segregated or integrated, and whether by some mathematical formula or by automatic assignment.... An open society does not have to be homogeneous, or even full integrated.

More than a decade and a half since after Baltimore School Superintendent John Fisher wrote he believed it “wrong to manipulate people to create an integrated situation” and HABC Housing Director Harry Weiss warned integration may require non-voluntary compliance in order to be effective, HUD’s emphasis on substantive desegregation rather than passive nondiscrimination was over.<sup>304</sup> While the proposed 1971 policy was never put into place and first come-first served approach remained the law into the 1990s, HUD relaxed its oversight of the implementation and administration of these policies.<sup>305</sup>

The ability of residents to choose had, in the words of Van Story Branch, “always been permissive.”<sup>306</sup> During the era of “freedom of choice” policies, this permissiveness was absolute—segregation lasted because white public housing residents were allowed to express preference for all-white projects without any resistance on the part of the HABC. Even after the

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<sup>304</sup> John H. Fischer, “The New Task of Desegregation,” *Nation’s Schools* 56 (Sept. 1955), 43-48; Weiss to Ash, July 27, 1954.

<sup>305</sup> Larry Pearl paper for Sterling Tucker, Tenant Selection and Assignment in Low-Income Public Housing, 1980, Series 3, Plaintiff Exhibits, Box 2, Exhibit 57, ACLU; Deposition of Laurance D. Pearl, Series 3, Plaintiff Exhibits, Box 1, Exhibit 11, ACLU.

<sup>306</sup> Memorandum from Branch to Embry, Oct. 16, 1968.

change to the “first come-first served” tenant selection policy, this permissiveness remained—housing officials purposely subverted the implementation of federal policy in ways that allowed applicants to surreptitiously express racialized preferences for public housing placements.

In 1989, twenty years after the Baltimore housing authority received approval for their four-area plan, HUD Secretary Jack Kemp issued directions to all regional housing commissioners that discontinued the practice of locational preferences for public housing applicants. No matter whether “solicited, allowed, granted based on availability, or ignored...expressed in terms of east side or west side, north quadrant or south quadrant,” public housing authorities had 90 days to discontinue the use of location preferences in relation to the first come-first served plan.<sup>307</sup> In addition to Secretary Kemp’s reasoning that “projects which are segregated or dominated by one race are often the result of or perpetuate such preferences,” Director Pearl later explained that allowing separate waiting lists for individual or groups of projects “would end up with something looking sort of like freedom of choice, which was that not very much would happen.”<sup>308</sup> In Baltimore, this was precisely the case: Claremont, Brooklyn, and O’Donnell projects remained 70-82 percent white in 1985.<sup>309</sup> Despite HUD’s attempted intervention, “first come-first served” did as little to encourage integration as “freedom of choice” had done before it.

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<sup>307</sup> Memorandum from Secretary Jack Kemp to All Regional Administrators, April 25, 1989, Series 3, Plaintiff Exhibits, Box 2, Exhibit 46, ACLU.

<sup>308</sup> Ibid.; Deposition of Laurance D. Pearl, Series 3, Plaintiff Exhibits, Box 1, Exhibit 11, ACLU.

<sup>309</sup> Eileen Canzian, “Baltimore Finds Integrating Public Housing an Elusive Goal”, *Baltimore Sun*, July 2, 1985.

## 6 CHAPTER FIVE: FIRST COME – FIRST SERVED

Along with attempts to desegregate public housing through tenant selection and placement, in the 1960s the Department of Housing and Urban Development saw the necessity of deconcentrating public housing from poor minority neighborhoods in central areas of cities. At the same time, HUD began experimenting with neoliberal forms of public housing construction and operation that would eventually give rise to the voucher-based system still in place today. In Baltimore, officials were forced to grapple with these questions of site selection alongside struggles over how to move majority-black public housing around a city that was rapidly losing white, middle-class families. While many of the city's civil servants expressed a desire and willingness to relocate public housing in some of the few remaining white areas of the city, they were often stymied by the lack of necessary approvals by elected officials—whose voters, they knew, were not willing to see public housing expand outside the boundaries of already black areas.

As this chapter discusses, despite some attempts to deconcentrate public housing through scattered site, turnkey, and leased housing programs, the HABC rarely followed the new site selection requirements, and HUD rarely enforced their own rules. While regulations stipulated new public housing development should take place outside areas of minority concentration, between 1960-1970, 18 of the 21 project sites proposed by the HABC were in black neighborhoods, which would later be used against the housing authority as “evidence of de jure segregation” in court challenges to continued public housing segregation in the 1990s.<sup>310</sup>

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<sup>310</sup> John B. Weld, “Notes and Comments: Remedying Segregated Public Housing in Metropolitan Baltimore.” *University of Baltimore Law Review* Article 8, 6 no. 1 (Fall 1976), 147.

In 1945, when the Federal Public Housing Authority (FPHA) began the Low Rent Housing Program, officials wrote that due to the “large number of variables” and location-specific factors in housing site selection, “It is not possible to lay down definite rules to govern this procedure.” Believing that “the full responsibility for site selection must be assumed locally,” rather than by federal requirements, the agency offered advice and suggestions. They recommended that local authorities consider the effects that site selection would have on the future of a public housing development and on the city plan. On the latter, their directions were more explicit, stating, “The housing program must be properly fitted into the city pattern, both existing and as projected into the future.”<sup>311</sup> It was thus in these very guidelines themselves that early housing projects should be located along the racially segregated patterns already in place in cities like Baltimore.

Along with the creation of the Department of Housing and Urban Development (HUD), the 1965 Housing Act brought with it a change in official policies surrounding public housing site selection. Rather than requirements to maintain existing racial patterns, HUD instructed public housing authorities to take pains to avoid further concentration of minorities and poverty through public housing programs. In 1967, following confusion on the latest HUD site selection requirements, HUD Secretary Robert Weaver issued a memo to clarify the “proper interpretation” of the policy. He explained that the purpose of the guidelines was to provide housing opportunity and choice both within and outside areas of current minority concentration, and as such, “any programs of public housing which provide sites only in areas of nonwhite concentration are, on the face of it, unacceptable.” Recognizing that previous public housing built for black and minority use had been built only in areas already inhabited by those groups,

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<sup>311</sup> National Housing Agency / U.S. Federal Public Housing Authority, Low Rent Housing Bulletin 18 (Formerly USHA Bulletin 18): Site Selection, December 1, 1945, Series 3, Plaintiff Exhibits, Box 3, Exhibit 76A, ACLU.

HUD mandated that new public housing developments were to be located outside of “racial minority group ghetto areas.”<sup>312</sup> In addition to providing better opportunities for black residents outside of these areas, HUD hoped that rethinking site selection would also help to stave off some of the increasing re-segregation of formerly all-white housing projects transitioning into all-black occupancy.<sup>313</sup> Alongside these new site selection regulations, the 1960s and 1970s saw HUD and local housing authorities experimenting with new systems of public housing acquisition and administration, namely scattered site projects, the turnkey program, and leased housing.

Although the city did experiment with new forms of public housing, the majority of development in the 1960s followed the same patterns—large-scale projects located in low-income black neighborhoods. One of these developments that explicitly recreated the same segregated patterns was the proposed expansion of McCulloh Homes. Located in a West Baltimore public housing cluster that included the two high-rise projects of Murphy Homes and Lexington Terrace, McCulloh Homes was one of the original eight segregated housing projects in the city. When it opened in 1941, it joined the ranks of Poe Homes, Douglass, Gilmor, and Somerset as housing for black low-income Baltimoreans.<sup>314</sup> In the initial 1934 site report, the State Committee on Housing in Baltimore called the area where McCulloh would be situated, “emphatically a colored area.” Furthermore, the report stated, “The site has no other value except for Negro residence, and never will have.” A report by the Associated Architects of Baltimore (AAB) from the period called the area surrounding McCulloh, “the most advanced case of

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<sup>312</sup> Memorandum from Robert C. Weaver to Edward Baxter, HUD Site Selection Policy Regulations for Low-Rent Public Housing, Sept. 25, 1967, Series 3, Plaintiff Exhibits, Box 6, Exhibit 172, ACLU.

<sup>313</sup> Letter from Irving P. Margulies, Associate General Counsel, Legal Services and Coordination Division, HUD to David O. Maxwell, General Counsel, HUD, Nov. 23, 1970, Series 3, Plaintiff Exhibits, Box 13, Exhibit 531, ACLU.

<sup>314</sup> Expert Report of Karl Taeuber, Series 3, Plaintiff Exhibits, Box 1, Exhibit 2, ACLU, 98.

‘blight’ in the City.” The AAB report posited that if McCulloh could be redeveloped enough to attract the “upper third” of the black housing market, it would “make possible the restoration to white use” of the neighboring areas, “a much needed change for Baltimore.” These reclaimed areas would then serve as a buffer to separate the black housing projects from the “well liked white residence area to the North” and “buttress” property values for the wealthier white neighborhood of Bolton Hill.<sup>315</sup> The value of renewing McCulloh was further noted by city inspector Homer Phillips, who claimed the neighborhood would “offer a splendid barrier against the encroachment of colored.”<sup>316</sup>

Although the language of the 1930s reports is striking in its frank espousal of racist viewpoints, many of the same underlying characterizations reemerged during discussions in the 1960s about expanding public housing in the neighborhood. In much the same way as 1930s housing officials viewed McCulloh as a protective barrier to spare white home values in Bolton Hill, 1960s housing officials saw expansion on the McCulloh site as a way to avoid affecting property values in the few remaining white areas of the city. In writing their recommendations to HUD, HABC officials described the neighborhood surrounding McCulloh as encompassing various “fair to poor” housing sites, “a few small junk yards,” and a planned highway project that would fragment and deteriorate the neighborhood. Because all dwellings within the boundaries of the expansion site were deemed “substandard,” the proposal declared the area “an undesirable place to live.” Furthermore, HABC noted, the site was located nearby five existing housing projects encompassing 2,754 units, all of which “currently house Negro families.”<sup>317</sup> The HABC

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<sup>315</sup> Report of the Associated Architects of Baltimore to the Maryland Emergency Housing and Park Commission, Series 3, Plaintiff Exhibits, Box 3, Exhibit 81, ACLU, 2.

<sup>316</sup> Memorandum from Homer Phillips to H. Tudor Morsell, Inspection and Study of Project #2700--Baltimore, Md., July 30, 1934, Series 3, Plaintiff Exhibits, Box 3, Exhibit 82, ACLU.

<sup>317</sup> HABC, McCulloh Extension Development Program MD 2-23, Dec. 1, 1964, Series 3, Plaintiff Exhibits, Box 6, Exhibit 176, ACLU.

was aware of the potential that HUD would reject the plans on the basis that they would increase the concentration of public housing in the area.<sup>318</sup> In an unusual and risky move, the HABC touted the move as a benefit that could prove “a valuable asset in the relocation process” for the many families being displaced by the city’s urban renewal projects. Even more brazen was the outright lie that black residents in the area were concentrated by choice. HABC officials claimed, “The housing market situation for Negro families is quite favorable,” and “Many areas [are] now open to Negro occupancy outside of the rundown sections of the city.” In sum, the HABC proposed adding 516 additional public housing units to the neighborhood, designated the McCulloh Homes Extension.<sup>319</sup>

Unconvinced by the HABC’s claims, the NAACP filed a formal complaint about the McCulloh Extension project and the pending dislocation of neighborhood residents in November 1966.<sup>320</sup> Baltimore NAACP officials alleged that homeowners in the surrounding neighborhood of Upton were being told that the “fair market value” of their homes was lower than the municipal tax assessments, which were, by state statute, supposed to be set at 65 percent of fair market value. This systemic undervaluing of property meant that either the city had been inflating the tax assessments to collect additional property tax revenues, or were now undervaluing the properties to avoid paying displaced residents for the full value of their properties.<sup>321</sup>

In addition to receiving “fair” compensation for their homes, residents displaced by urban renewal were to receive assistance in finding new dwellings, financial support for relocation, and for those who were income-eligible, status at the top of waitlists for public housing. While

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<sup>318</sup> Memorandum from Edward Minor to Ellick Maslan, Aug. 12, 1960, Series 3, Plaintiff Exhibits, Box 6, Exhibit 177, ACLU.

<sup>319</sup> HABC, McCulloh Extension Development Program MD 2-23, Dec. 1, 1964, Series 3, Plaintiff Exhibits, Box 6, Exhibit 176, ACLU.

<sup>320</sup> Complaint Filed with Department of Housing and Urban Development, McCulloh Homes Extension Public Housing project, Baltimore, Maryland, Series 3, Plaintiff Exhibits, Box 6, Exhibit 178, ACLU.

<sup>321</sup> NAACP News Release, June 24, 1966, Series 3, Plaintiff Exhibits, Box 6, Exhibit 178A, ACLU.

displacement was an issue for all residents, the elderly homeowners of Upton were especially vulnerable. For these residents who owned their homes outright, returning to a rental situation was not only insulting, but put their financial futures in jeopardy, forcing them to pay monthly or weekly rent in perpetuity rather than owing yearly property taxes. The offer of placement into public housing was also unappealing to those who had owned their homes and saw that ownership, no matter how meager the property, as a marker of self-sufficiency. As such, the NAACP demanded that displaced homeowners be compensated at a rate that would allow them to repurchase homes in new neighborhoods.<sup>322</sup> Moreover, the complaints alleged, HABC relocation counselors only referred displaced residents to the “Negro listings” in local newspapers that were unaffordable and in substandard conditions.<sup>323</sup>

The HABC responded denying any wrongdoing. While the NAACP claimed that displaced residents were not receiving adequate relocation assistance, the HABC insisted that the homeowners had “clearly expressed...unwillingness to even consider public housing,” and thus their complaints were invalid. The agency flatly denied that properties were being undervalued for relocation funds, claiming instead that market values in the area had been declining “fairly rapidly” without tax assessments being adjusted, all but admitting that homeowners in the neighborhood had been unfairly taxed while passing blame to the municipal tax assessor’s office. Housing officials did concede that for the neighborhoods’ longtime homeowners, especially those who had maintained their properties while the area deteriorated around them, relocation to a similarly blighted neighborhood was unsatisfactory. Rather than propose any real solutions, however, the HABC suggested that the federal government be responsible for providing the

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<sup>322</sup> Ibid.

<sup>323</sup> Frank P. L. Somerville, “Relocation Fault Found: Renewal Agency Criticized on Moving of Tenants.” *Baltimore Sun*, Feb. 7, 1967.



difference between the current “fair market value” of the homes and the cost to purchase a similar home in a non-blighted area.<sup>324</sup> Despite the NAACP’s complaints, HUD sided with the Baltimore housing authority and ruled that the local office was “endeavoring to carry out its relocation responsibilities... in a satisfactory and competent manner,” and approved the housing development plans to move forward. The McCulloh Homes Extension opened to public housing residents in 1971.<sup>325</sup>

Simultaneous with the NAACP’s complaints on behalf of displaced Upton residents, another group called Activists for Fair Housing was forming. The group was founded in 1966 by six former members of the Congress for Racial Equality (CORE), including well-known local activist Walter P. Carter.<sup>326</sup> That year, the group issued a report accusing the Baltimore housing authority of reinforcing residential segregation in the city by only offering relocation for residents displaced by urban renewal to areas “usually occupied by the Negro population.”<sup>327</sup> Although the Fair Housing Act of 1968 had not yet been passed, the Activists for Fair Housing argued that this was a violation of *Brown v. Board*, as segregated housing was “ipso facto unequal and inferior.” Baltimore’s urban renewal and housing authority executive director Richard Steiner defended the HABC, arguing that officials were working toward “improving housing conditions” and “removing blight from residential neighborhoods,” and that they had

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<sup>324</sup> Complaint Filed with Department of Housing and Urban Development, McCulloh Homes Extension Public Housing project, Baltimore, Maryland, Series 3, Plaintiff Exhibits, Box 6, Exhibit 178, ACLU.

<sup>325</sup> Frank P. L. Somerville, “Relocation Fault Found: Renewal Agency Criticized on Moving of Tenants.” *Baltimore Sun*, Feb. 7, 1967; Expert Report of Karl Taeuber, 98.

<sup>326</sup> Carter was also responsible for the successful lawsuit against notorious Baltimore slumlord and predatory lender Morris Goldseker. For more on Goldseker, see Antero Pietila, *Not in My Neighborhood: How Bigotry Shaped a Great American City* (Chicago: Ivan R. Dee, 2010).

<sup>327</sup> Recommendations and Analysis: Baltimore Urban Renewal and Housing Agency and Department of Housing and Urban Development, The Activists for Fair Housing, August 1966, Series 3, Plaintiff Exhibits, Box 11, Exhibit 402, ACLU; Edgar Ewing, Notes on Meeting with the Secretary of HUD, Nov. 21, 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 159, ACLU, 1.

“the best record and the most progressive outlook wherever race relations are concerned.”<sup>328</sup> His argument hinged on the constant refrain of “freedom of choice,” stating that the agency believed in a “positive framework of free choice.”<sup>329</sup> The activists’ complaints also implicated HUD, leading the HABC and HUD to arrange a meeting in Washington, D.C. in November 1966. At that meeting, HUD Secretary Weaver made clear that he was not interested in addressing the specific points made by the Activists for Fair Housing, but that HUD and the HABC needed to work together to set out plans that would “break down the patterns of the past.”<sup>330</sup>

The activists were not satisfied with the answers they received from HUD and the HABC, and continued to write letters outlining their grievances. In January 1967, the group wrote to HUD Secretary Weaver that they would not be satisfied with empty assurances that HABC was “doing all it can,” and called into question whether the department was complying with Executive Order 11063 requiring equal opportunity in housing.<sup>331</sup> The Activists for Fair Housing asked HUD to intervene in the city, questioning whether, “in light of previous city council decisions,” any locations “outside of the ghetto” would be approved for public housing.<sup>332</sup> Although the HUD regional office in Philadelphia did launch an internal review of the HABC’s policies, officials refused to release the study’s findings. Even so, HUD spokesman

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<sup>328</sup> In 1956, the Baltimore Redevelopment Commission was reconfigured as the Baltimore Urban Renewal and Housing Authority (BURHA). The Housing Authority of Baltimore City (HABC) was one branch under the BURHA umbrella. Though this dissertation has thus far dealt primarily with HABC, because this chapter deals with broader questions of urban renewal, several instances fall under the purview of BURHA Executive Director Richard Steiner. In the interests of simplicity and a desire to pare down the bureaucratic acronyms, Steiner is referred to throughout as Executive Director Steiner.

<sup>329</sup> Letter to Warren Phelan from Richard L. Steiner, October 18, 1956, Series II, Box 1, Folder 1, Baltimore Urban Renewal and Housing Authority (BURHA) Collection, University of Baltimore Archives.

<sup>330</sup> Edgar Ewing, Notes on Meeting with the Secretary of HUD, Nov. 21, 1966, Series 3, Plaintiff Exhibits, Box 5, Exhibit 159, ACLU, 4.

<sup>331</sup> Letter from Cleveland Chandler and Shirley Bramhall to Robert C. Weaver, Jan. 27, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 247, ACLU; EO11063, issued by President J.F. Kennedy, November 20, 1962.

<sup>332</sup> Letter from Cleveland Chandler and Shirley Bramhall to Robert C. Weaver, Jan. 27, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 247, ACLU.

Jack Brian told the *Baltimore Sun* that the federal authority was “in the process of ‘juicing up’ its anti-discrimination efforts.”<sup>333</sup>

Baltimore’s elected officials cast themselves as the maligned victims of unfair complaints about racial discrimination. Soon after the protests by the NAACP and Activists for Fair Housing, HUD was likewise facing claims by the National Committee Against Discrimination in Housing that their urban renewal and public housing programs were building “racial ghettos.” Baltimore Mayor Theodore McKeldin wrote to HUD Secretary Weaver offering his sympathies and commending Weaver’s statements refuting the claims. McKeldin wrote that he was himself “faced with somewhat the same situation” in Baltimore, with “inaccurate and unfair” accusations “opposing improvements in housing and living conditions within areas of predominantly Negro occupancy.” McKeldin expressed outrage that these groups were “castigat[ing] our continuing and simultaneous efforts to improve...the slum and blight-ridden” neighborhoods that were “occupied in the main by disadvantaged Negro families.” He also claimed that city officials were making “every effort” to integrate public housing, unlike the NAACP and other groups who were causing “injustice” and doing great “disservice...to the people they most want to help.” In fact, McKeldin insisted, the “prognosis for success” in integrating public housing was good, and he claimed to have “obtained the voluntary integration of a number of private housing developments” through his own personal efforts.<sup>334</sup>

McKeldin then created a strawman of the finest order. “Would these civil rights leaders,” he lamented, “abandon all of these people indefinitely?” On the other hand, he himself refused “to suddenly abandon neighborhoods,” as doing so would be “foolish, impractical, and short-

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<sup>333</sup> Thomas Edsall, “D.C. Won’t Give Data on Bias Report,” *Baltimore Evening Sun*, March 11, 1967.

<sup>334</sup> Letter from Theodore R. McKeldin to Dr. Weaver, Feb. 10, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 248, ACLU.

sighted.” McKeldin was convinced he had the moral high ground. “Lest others forget,” he told Weaver, “the first goal of national housing policy is a good home in a good environment for every American family. Other objectives are important too, but this one is—and should remain—foremost.” McKeldin’s line of reasoning failed to address the actual complaints made against the HABC and HUD. Advocacy groups were not agitating to end urban renewal entirely, but to stop corralling the displaced residents of color in the same ghettoized areas that gave rise to the current issues of concentrated poverty. Clearly McKeldin did not see, or did not wish to acknowledge, the concerns that state-sponsored retrenchment of segregated residential patterns was in itself a violation of his “foremost” goal.<sup>335</sup>

Despite resistance from elected officials to deconcentrating public housing from poor minority neighborhoods, it seemed that many civil servants within the Baltimore housing authority did understand and support the goals of HUD’s site selection policies. Simultaneously, officials were faced with rapidly shrinking white neighborhoods as thousands of white city residents moved to the surrounding counties.<sup>336</sup> Executive Director Steiner declared proudly to the HUD regional office in February 1967 that seven of the nine sites submitted for city council approval were located “quite a distance” from “conventional areas of non-white concentration.” What he failed to mention was that while these neighborhoods were not historically black, many of them were undergoing rapid transitions toward majority black occupancy. Still, Steiner pointed to these site selections as “concrete evidence” that the HABC was “not only willing, but...making a conscientious effort” to establish subsidized housing outside of the inner city. Steiner expressed understanding that segregated housing “aggravates slums and conditions of

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<sup>335</sup> Ibid.

<sup>336</sup> The white population of Baltimore County, a wholly-separate governing body which surrounds Baltimore City on three sides, more than doubled from 1950 - 1964, from 202,247 to 525,020. Expert Report of Arnold Hirsch, Series 3, Plaintiff Exhibits, Box 1, Exhibit 3, ACLU, 76.

blight and deterioration,” calling it demoralizing and discouraging, and adding, “No city can expect equal responsibility, without advocating equal opportunity.”<sup>337</sup>

Displacement of residents in the name of “progress” through urban renewal was a constant problem for rapidly changing cities across the United States during this era, not just Baltimore.<sup>338</sup> Residential displacement was a driving force in the rapid racial turnover of public housing projects, in large part because federal regulations mandated that those supplanted by urban renewal projects who were income-eligible for public housing be placed at the top of housing waitlists.<sup>339</sup>

Urban renewal projects disproportionately displaced residents of color; between 1951 and 1960, the HABC reported that 3,722 non-white households had been forced from their homes, compared to only 252 white households during the same period.<sup>340</sup> While the vast majority of urban renewal displacement was caused by “neighborhood development projects,” the construction of new public housing projects themselves displaced thousands of low-income residents.<sup>341</sup>

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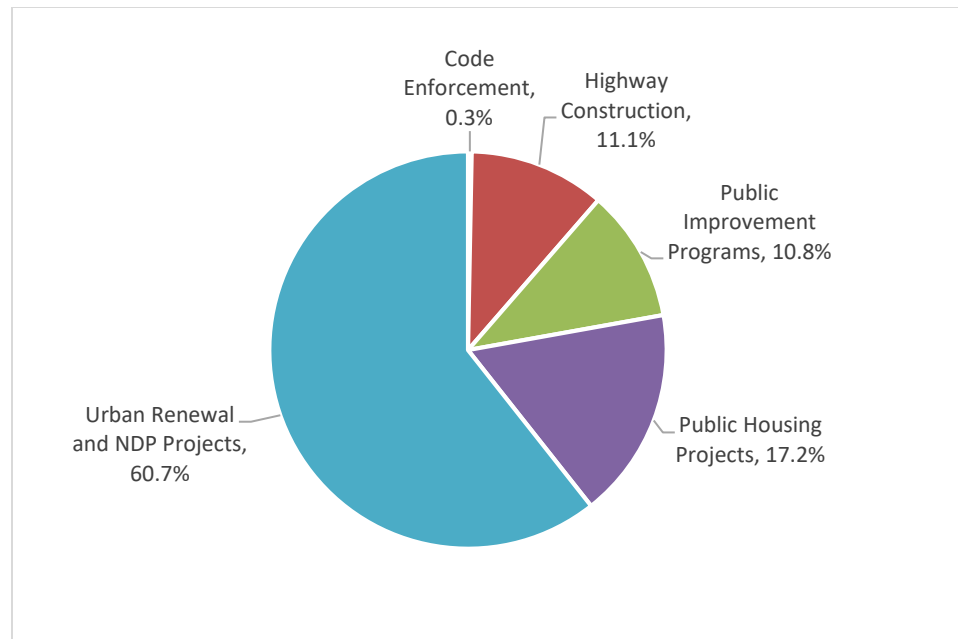
<sup>337</sup> Letter from Richard L. Steiner to Leroy Smith, Feb. 21, 1967, Series 3, Local Defendant Exhibits, Box 2, Exhibit 249, ACLU.

<sup>338</sup> See Francesca Russello Ammon, *Bulldozer: Demolition and Clearance of the Postwar Landscape* (New Haven: Yale University Press, 2016).

<sup>339</sup> Expert Report of Karl Taeuber, 43.

<sup>340</sup> Letter from R. L. Steiner to Berl I. Bernhard, June 27, 1961, Series 3, Plaintiff Exhibits, Box 5, Exhibit 128A, ACLU, 2.

<sup>341</sup> Chart from Department of Housing and Community Development, Residential Displacement Activity Analysis 1951-1971, May 1971, Series 3, Plaintiff Exhibits, Box 6, Exhibit 173, ACLU.



*Figure 6.1 Causes of Resident Displacement, 1951-1971<sup>342</sup>*

Moreover, of the 10,000 families during those two decades who qualified for relocation assistance due to displacement, 86 percent were black. According to a 1971 report by the Department of Housing and Community Development, “The more affluent white residents are leaving for surrounding counties... before neighborhood deterioration reaches the point” where an area would be declared an urban renewal project, and thus eligible for relocation assistance.<sup>343</sup>

White residents of even modest means had enough options available to them on the open housing market and through FHA and veterans’ home-financing programs that they were able to leave areas that began to deteriorate; it was often only at that point that black residents were even able to move into the declining neighborhoods. Conversely, even more affluent black residents

<sup>342</sup> Chart from Department of Housing and Community Development, Residential Displacement Activity Analysis 1951-1971, May 1971, Series 3, Plaintiff Exhibits, Box 6, Exhibit 173, ACLU.

<sup>343</sup> Department of Housing and Community Development, Residential Displacement Activity Analysis 1951-1971, May 1971, Series 3, Plaintiff Exhibits, Box 6, Exhibit 173, ACLU, 4.

were often stuck in place as their neighborhoods began to fall apart around them.<sup>344</sup> While white Baltimore residents were fleeing the city in favor of surrounding Baltimore County, black residents were leaving the county for the city. The County government did not have to resort to overt racism; due to the combination of predatory zoning practices, denial of sewer services, and other neglectful methods, the black population of Baltimore County fell from 18,026 residents in 1950 to only 16,580 in 1964, even as the overall population of the county more than doubled.<sup>345</sup>

*Table 5 Baltimore County Population, 1950-1964*<sup>346</sup>

	1950	1964
Total Population	220,273	541,600
Black Population	18,026	16,580
Black Population %	8%	3%

One effort to deconcentrate poverty, support meaningful residential integration, and reduce stigma surrounding public housing came with the creation of the scattered site housing program. Officials saw developing smaller lower density projects “scattered” throughout neighborhoods, rather than high-rise “towers in the park”-style public housing, as creating new opportunities to build public housing in non-minority neighborhoods without the massive public outcry they faced with Herring Run in the 1940s.<sup>347</sup> Still, the shift to scattered-site housing brought with it renewed questions about where to construct public housing projects, specifically

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<sup>344</sup> For more, see Nathan D.B. Connolly, *A World More Concrete: Real Estate and the Remaking of Jim Crow South Florida* (Chicago: University of Chicago Press, 2014); Todd M. Michney, *Surrogate Suburbs: Black Upward Mobility and Neighborhood Change in Cleveland, 1900-1980* (Chapel Hill: University of North Carolina Press, 2017); Andrew Wiese, *Places of their Own: African American Suburbanization in the Twentieth Century* (Chicago: University of Chicago Press, 2004); and Walter David Greason, *Suburban Erasure: How the Suburbs Ended the Civil Rights Movement in New Jersey* (Lanham, MD: Rowman & Littlefield, 2012).

<sup>345</sup> Expert Report of Arnold Hirsch, 76.

<sup>346</sup> Expert Report of Arnold Hirsch, 76.

<sup>347</sup> James Hogan, “Scattered-Site Housing: Characteristics and Consequences,” Prepared for U.S. Department of Housing and Urban Development Office of Policy Development and Research, 1996.

whether to put them on vacant or “clearance” land where blighted housing and slums had been torn down for urban renewal.

While the city outwardly embraced the scattered-site housing program, many public housing officials disagreed with the vision of placing these projects in new neighborhoods. For Assistant Director of Planning Ellick Maslan, the choice was simple: continue adding new housing projects on the “fringes” of existing projects, as that was “where it was already accepted.” Though not explicitly referring to the 1940s conflict over Herring Run, Maslan’s comments reflected the city’s desire to avoid another protracted fight over the placement of public housing. Despite being neutral on the surface, Maslan’s comments also had racial and class undertones. Some housing officials raised concerns that adding more public housing would constitute a “continuing policy of ringing the center of the city with permanent economic ghettos.” It was politically more feasible, however, to continue concentrating public housing in low-income, minority neighborhoods where residents had less political power than to attempt to infiltrate the few white middle-class neighborhoods remaining in the city.<sup>348</sup> Maslan’s suggestion also ran directly counter to HUD requirements to avoid areas of poverty or minority concentration. Despite HUD guidelines implemented in the 1960s, many of the public housing projects developed in 1960s Baltimore—Emerson Julian and Spencer Gardens, Rosemont, and McCulloh Homes Extension among them—were placed in census tracts of near-total minority populations and areas of “extreme poverty.”<sup>349</sup>

In February 1970, a “package” of three projects in the northwest neighborhoods of Rosemont, Dukeland, and Hilton came before the HABC Staff Commission for discussion.

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<sup>348</sup> Letter from Ellick Maslan to RL Steiner, March 4, 1960, Series 3, Plaintiff Exhibits, Box 6, Exhibit 177, ACLU.

<sup>349</sup> Rolf Pendall, “The Ghettoization of HABC-Assisted Tenants in Baltimore City,” Report to the ACLU Foundation of Maryland, April 21, 2003, Series 3, Plaintiff Exhibits, Box 1, Exhibit 5, ACLU.



Despite purchasing parts of the land and hiring an architect in 1965, the HABC had allowed the housing sites to sit undeveloped for five years amid concerns that the projects “would be difficult to maintain” due to the unsuitability and “unattractiveness” of the “three odd pieces of land,” which included bad terrain and railroad tracks.<sup>350</sup>

When plans resurfaced several years later, residents objected to the projects, reflecting class stratification within Baltimore’s black community in the ways that middle-class black residents expressed “not in my backyard” (NIMBY) objections to the development of public housing within their neighborhoods. The Rosemont neighborhood embodied the aspirations of the city’s middle-class black community. Characterized as a “stable, middle class Negro community” in a 1968 *Baltimore Sun* article, Rosemont was 98 percent black and had a 72 percent homeownership rate—significantly higher than the city as a whole.<sup>351</sup> In the mid-1960s, the neighborhood successfully fought off design plans for the Baltimore East-West Expressway, which would have run through the neighborhood, effectively destroying the community.<sup>352</sup> In 1969, the HABC Commissioners decided to reopen plans for public housing in Rosemont, stating, “The neighborhood is ready for these projects.” The neighborhood vehemently disagreed.<sup>353</sup>

When word of the renewed plans reached the Rosemont Neighborhood Improvement Association (RNIA), the group wrote to Commissioner of Housing Robert Embry that the increase in private developments in the intervening years since Rosemont’s first approval as a

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<sup>350</sup> HABC Summary of Commission-Staff Discussion, Feb. 17, 1970, Series 3, Plaintiff Exhibits, Box 6, Exhibit 195.

<sup>351</sup> James D. Dilts, “Changing City – We Must Destroy You To...”, *Baltimore Sun* August 4, 1968; Letter from Maxine S. Saunders to Mr. Reginald Thomas (Housing Authority of Baltimore City Public Housing Management Review), Sep. 14, 1992, Series 3, Federal Defendant Exhibits, Box 1, Exhibit 3; Memorandum of Decision, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001), 208.

<sup>352</sup> James D. Dilts, “Being Avoided by 3-A is Rosemont’s Success Story,” *Baltimore Sun*, March 29, 1976.

<sup>353</sup> HABC Summary of Commission-Staff Discussion, Feb. 17, 1970, Series 3, Plaintiff Exhibits, Box 6, Exhibit 195, ACLU..

public housing site meant the neighborhood's service facilities were already at capacity. They expressed concern that the project would overburden the already inadequate sanitation services, police, and public safety, and exacerbate transportation problems in the neighborhood. While facility upgrades had already been discussed for the neighborhood, RNIA representatives feared the planned project density was too high and would "more than overcrowd" the planned infrastructural improvements.<sup>354</sup> Having experienced greater than a 15 percent population increase in the previous decade, the group lamented, "We now find ourselves with inadequate everything."<sup>355</sup> Moreover, the 98 percent black Rosemont residents saw the decision to develop public housing in their neighborhood as "the fostering of 'de facto' segregation" and the "establishment of a ghetto."<sup>356</sup> No projects had been proposed in the city's few remaining white middle-class neighborhoods, yet Rosemont was denigrated in the press for its refusal to accept the plans. In 1969, the *Baltimore Sun* published an editorial complaining, "Nearly everyone concedes the urgent need for new housing to accommodate low-income families, but when the city tries to act, the howl is always: 'But don't built it here!'"<sup>357</sup>

Receiving no response, the RNIA wrote again to Embry in July 1970. This time, RNIA President Joseph Wiles pointed out that the association had been warning of these problems for years. The year before, then-President Rose Gallop had written a letter to the editor of the *Baltimore Sun* declaring, "If that housing site is put there, you will be adding another slum to Baltimore City."<sup>358</sup> In his letter, Wiles reiterated concerns about minority concentration. The

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<sup>354</sup> Letter from Joseph Wiles, President, Rosemont Neighborhood Improvement Association to Robert Embry, DHCD, Mar. 6, 1970, Series 3, Plaintiff Exhibits, Box 6, Exhibit 196, ACLU.

<sup>355</sup> Rose J. Gallop, "Rosemont's Objections to Low-Rent Housing," *Baltimore Sun*, June 26, 1969; Letter from Joseph Wiles, President, Rosemont Neighborhood Improvement Association to Robert Embry, DHCD, Mar. 6, 1970, Series 3, Plaintiff Exhibits, Box 7, Exhibit 196, ACLU.

<sup>356</sup> *Ibid.*

<sup>357</sup> "Kibosh on Housing," *Baltimore Sun*, May 30, 1969.

<sup>358</sup> "Planning Unit May Review Housing Site," *Baltimore Sun*, May 15, 1971.

creation of the Rosemont housing project, Wiles asserted, “would be in strict violation of Federal statutes” for site selection policy. He pointed out that despite being “ghettoized,” the Rosemont neighborhood was currently “stable,” and offered a number of suggestions “as means of preventing further moral and physical neighborhood deterioration,” and to “prevent a ghetto from becoming a slum.” These included new school facilities, a Mayor’s Station, administrative facilities for the Baltimore Public School System, park and recreation facilities, a community center, and reconstructed and realigned roads—all of which would require a number of housing units to be deleted from the project plans, of course.<sup>359</sup> Despite having successfully fended off the East-West Expressway, the RNIA was unable to replicate their success in relation to public housing. Construction on the Rosemont housing project was completed in 1975.<sup>360</sup>

Rosemont was not the only location in the scattered-site “package” to face neighborhood opposition. Similarly, the Hilton neighborhood was 81 percent black; unlike Rosemont, however, the bordering neighborhood of Saint Joseph’s was predominantly white.<sup>361</sup> While the RNIA had used all the avenues available to them to object—writing letters to the editor, complaining to the HABC, and even bringing a proposed ordinance change to the city council—it was this proximity to a white neighborhood that enabled Hilton to successfully stop plans for public housing within their community, especially when State Senator Carl Friedler got involved.

Carl Friedler had served as Assistant City Solicitor from 1960-1963, and was elected to the Maryland Senate in 1966. At the time of the Hilton proposal, Friedler was preparing to run for the Democratic nomination in a U.S. congressional race, and fighting the “encroachment” of

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<sup>359</sup> Letter to Robert C. Embry, Jr., Commissioner, HUD, from Joseph S. Wiles, President, Rosemont Neighborhood Improvement Association, July 27, 1970, Series 3, Plaintiff Exhibits, Box 7, Exhibit 197, ACLU.

<sup>360</sup> Memorandum of Decision, *Thompson v. HUD*, 208.

<sup>361</sup> “Table 2. Characteristics of Housing Units and Population, by Blocks, 1970 (Baltimore City),” Block Statistics, Baltimore, Md. Urbanized Area, 1970 Census of Housing. U.S. Department of Commerce, Bureau of the Census, 1971, 142-43; Memorandum of Decision, *Thompson v. HUD*, 210.

public housing into one of his constituent white neighborhoods was a banner opportunity.<sup>362</sup> Unlike the RNIA's letters to Housing Commissioner Embry, Friedler bypassed the Baltimore civil servants and wrote directly to HUD Assistant Secretary Don Hummel. In a somewhat coded appeal, Friedler said that despite the local school board's plans to build a new school in the neighborhood, it only "might be adequate for existing needs," a position that does not hold up to the barest scrutiny [emphasis in original]. Rather than noting the opportunity to revise the plans before construction to take into account the additional need from children living in the proposed project, Friedler insisted that the additional students would "overload, if not make obsolescent" the new school before it was even built. Friedler insisted that HUD should essentially work backwards, only allowing as many public housing units as the school could already accommodate. Perhaps anticipating that the response to his objections would be to revise the school plans to account for an increase in enrollment, Friedler then dropped the coded language. The Hilton project, he wrote, would "unquestionably saturate the neighborhood with additional unwanted people," and be "a sick slum surrounded by new mortar." In an echo of RNIA's Rose Gallop, he wrote, "I cannot understand why your agency is so determined to build a new slum."<sup>363</sup>

Because Friedler bypassed the local authority, HABC Commissioner Embry only found out about the letter once it was forwarded by HUD Assistant Director Hummel with a request for explanation. Embry responded that Friedler's claims were "inaccurate and incomplete." Despite Friedler's assertions that Hilton was a "high density" project, the scattered-site project was only to include 84 units, with a planned density of 16 families per acre in an area zoned for 40.

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<sup>362</sup> Carl Friedler Obituary, *Washington Post*, July 12, 1990.

<sup>363</sup> Letter from Carl Friedler, State Senator to Don Hummel, HUD Assistant Secretary, January 10, 1969, Series 3, Plaintiff Exhibits, Box 7, Exhibit 198, ACLU.

Furthermore, the Department of Housing and Community Development had given 35 percent of the project area to the school board for construction of new school facilities, and were coordinating with the school board “to ensure that adequate school facilities are available.”<sup>364</sup>

Not receiving the response he wanted from HUD, Friedler next turned to the Baltimore City Council. Despite Friedler’s objections having no basis in fact, the pressure from him and the Saint Joseph’s Improvement Association led City Council President William Schaefer to introduce a motion to rescind approval for the Hilton project site. Following the motion’s introduction, Embry wrote to Schaefer reminding him that, following approval by the city council and mayor in 1965, the HABC had expended significant funds to purchase the site, conduct a preliminary site preparation, and hire an architect. He also reminded the council that they ought to be “fully aware” of the need for additional public housing and the “dearth of suitable sites” available. As such, rescinding approval for the Hilton project, “would constitute a serious retrogression in the Administration’s efforts to assure all Baltimore families a decent home and a suitable living environment.” Furthermore, Embry voiced concern that the move would “seriously complicate” the HABC’s relationship with the federal government, as federal funds had already been spent and contracts made.<sup>365</sup> Nevertheless, the City Council officially rescinded permission to build on the Hilton site, killing the project.<sup>366</sup>

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<sup>364</sup> Letter from Robert Embry, Department of Housing and Community Development Commissioner, to Don Hummel, HUD Assistant Secretary, January 17, 1969, Series 3, Plaintiff Exhibits, Box 7, Exhibit 199, ACLU.

<sup>365</sup> Letter from Robert Embry, HCD Commissioner to William Schaefer, City Council President, February 6, 1969, Series 3, Plaintiff Exhibits, Box 7, Exhibit 200, ACLU.

<sup>366</sup> Ordinance No. 583 (Council No. 678), Ordinances and Resolutions of the Mayor and City Council of Baltimore, Passed at the Annual Session 1968-1969 (Baltimore: King Brothers, Inc, 1969), 702-705. Accessed through the Baltimore City Archives. Though it was the end of the specific project, it was not the end of the discourse. Calvin Quill, head of the St. Joseph’s Improvement Association, later complained that a Zoning Commission approval to allow the use of two row houses for apartments in the neighborhood was going to “make a ghetto,” and that it was “all a stacked deck against the people in this area.” He told the *Baltimore Sun*, “When the real estate people can’t gyp the Negroes through buying, they start dumping all kinds of people in here.” He also contended that allowing apartments “would be just as detrimental as the public housing would have been” to the community. (“Zoning Board Action Draws Blast: Deck ‘Stacked Against’ His People, Head of Neighborhood Says.” *Baltimore Sun*, Nov. 23, 1969, 18.)

Although the Hilton project was dead, Baltimore was still in desperate need of affordable housing units, so the HABC asked for and received permission from HUD to add units to a planned scattered-site project in the Upton neighborhood, where the Murphy Homes public housing project already dominated the landscape.<sup>367</sup> Murphy Homes, a massive block of public housing located in the same West Baltimore cluster that included McCulloh Homes, encompassed 758 units in high rises.<sup>368</sup> When plans for Murphy Homes had first begun in the 1950s, the HABC proposed that the mix of high- and low-rise housing also include yards and larger-sized units for families with more children. Instead, HUD insisted on higher density for the site, increasing the number of units within the project from 643 to the 758 that were eventually built.<sup>369</sup> According to the *Baltimore Sun*, agency officials expected the four high-rises and 19 low-rise buildings surrounding them would eventually “blend into” the surrounding area as it was reconstructed through urban renewal.<sup>370</sup>

This plan did prove, in one sense, prophetic. By the time that the additional housing units from the Hilton plan were transferred to Upton, more than 25,000 people had been displaced from Baltimore neighborhoods due to highway construction and urban renewal demolition. This left the remaining low-income housing residents over-represented in the neighborhood—a 1979 study found that more than half of the residents in Upton earned below 80 percent of the city’s

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<sup>367</sup> Memorandum Robert Orser to R. C. Embry, July 26, 1976, Series 3, Plaintiff Exhibits, Box 7, Exhibit 204, ACLU; HABC, Murphy Homes/Emerson Julian Gardens HOPE VI Revitalization Grant Proposal, July 18, 1997, Series 3, Plaintiff Exhibits, Box 7, Exhibit 205, ACLU, 15 & 93. Upton’s most famous resident is Thurgood Marshall, who was raised in the neighborhood and attended the segregated PS103 on Division Street (Christina Tkacik, “Remembering the Division Street of Thurgood Marshall’s Day,” *Baltimore Sun*, Oct. 19, 2017.) Similarly, when the Baltimore City Council blocked approval of a new 60-unit development in a predominantly white neighborhood of Southwest Baltimore, HABC asked for and received permission to construct the units instead as an extension of the overwhelmingly-black Somerset Court. (HABC Response to Neal Request for Admission, Series 3, Plaintiff Exhibits, Box 6, Exhibit 183, ACLU; Baltimore City Council Ordinance No. 646, Dec. 15, 1969, Series 3, Plaintiff Exhibits, Box 6, Exhibit 192, ACLU.)

<sup>368</sup> Memorandum of Decision, *Thompson v. HUD*, 195-196

<sup>369</sup> “Housing Officials Begin Plans for Final Project,” *Baltimore Sun*, June 8, 1957; “Agency Approves Home Plan Shift,” *Baltimore Sun*, Oct. 4, 1958.

<sup>370</sup> *Ibid.*

mean family income.<sup>371</sup> Despite the already heavy concentration of public housing residents, 99 percent of whom were black, HUD also approved the addition of the Emerson-Julian Gardens and Spencer Gardens housing projects to the neighborhood.<sup>372</sup> This was a direct contradiction of HUD's own site selection policies. Just four year earlier, HUD had rejected Upton as a site for any additional public housing on the basis of the area's extreme minority concentration and the density of public housing already in the area; but with the mayor and city council blocking public housing in non-minority areas, Steiner and his staff had few other options left.<sup>373</sup> While the general sentiment of HABC staff may have changed since Maslan's 1960 suggestion to keep building on the fringes of existing public housing, the political situation had not.

The late 1960s was also a time of innovation in public housing administration, made possible through the 1965 Housing and Urban Development Act. Although the large-scale change in public housing policy toward neoliberal, private-sector development is outside the scope of this dissertation, two noteworthy early interventions took place in the Baltimore public housing scene. In 1966, HUD Secretary Weaver introduced the Turnkey Housing program. Under this program, private developers would construct housing on their own, privately-owned land using private bank financing. Then, when the development was completed, the private developer would sell it to the local housing authority to be used for public housing. The local authority and HUD did not front any funding or take any of the risk associated with the project, but the local authority would approve preliminary plans and sign a Letter of Intent and Contract

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<sup>371</sup> Memorandum from Maxine Cunningham to Thomas Hobbs, FHEO Site Review - Upton - Section 236 - 180 units, Mar. 13, 1979, Series 3, Plaintiff Exhibits, Box 7, Exhibit 203, ACLU.

<sup>372</sup> Memorandum of Decision, *Thompson v. HUD*, 211; HABC, Murphy Homes/Emerson Julian Gardens HOPE VI Revitalization Grant Proposal, July 18, 1997, Series 3, Plaintiff Exhibits, Box 7, Exhibit 205, ACLU; Letter from Deborah Vincent, General Deputy Assistant Secretary to Daniel Henson, Sept. 3, 1998, Series 3, Plaintiff Exhibits, Box 11, Exhibit 396, ACLU.

<sup>373</sup> Memorandum from Maxine Cunningham to Thomas Hobbs, FHEO Site Review - Upton - Section 236 - 180 units, Mar. 13, 1979, Series 3, Plaintiff Exhibits, Box 7, Exhibit 203, ACLU.

of Sale. The Turnkey program was envisioned as a cost-reduction mechanism—estimated to save 10-15 percent of development costs per project—as well as a way to get public housing sites built more quickly than local housing authorities could manage, reducing average construction time from the three to four years necessary for traditional public housing, to under a year for turnkey public housing.<sup>374</sup>

In July 1967, HABC commissioners met to consider several turnkey sites. Under the turnkey program, private developers would remodel and rehabilitate a housing development to then sell to the housing authority for use as public housing, with the expectation that the private developer could do the work at a lower cost and on a shorter timeline than the public agency could build new projects. One site, Belle Vista in northeast Baltimore, was considered especially advantageous by the housing authority as it would provide 77 four-bedroom units, sixteen units with three bedrooms, and ten with two bedrooms, for a total for 103 new dwelling units available to the city public housing program. The proposal included the costs of converting smaller units into the larger three- and four-bedroom rentals, along with additional upgrades to stairwells, kitchens, and playground equipment. In total, the cost per unit of \$14,809 was significantly below the estimated cost of new public housing construction. HABC Assistant Director L.S. O’Gwynn recommended that, “Giving due weight to the desirability of the Belle Vista site,” as well as the relatively short timeline needed for completion of the rehabilitation, commissioners should move forward with the project.<sup>375</sup>

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<sup>374</sup> This describes what is now known as Turnkey I. Under the Turnkey II program, public housing was privately developed and managed by nonprofit groups, for-profit entities, or tenant organizations. Under the Turnkey III program, public housing projects are developed with the eventual vision of turning over ownership to the occupants through lease-purchase or self-maintenance arrangements. Joseph Burstein, “New Techniques in Public Housing,” *Law and Contemporary Problems* 32, Summer 1967, 528-549.

<sup>375</sup> Memorandum R.L. Steiner to Feinblatt et al., July 24, 1967, Series 3, Plaintiff Exhibits, Box 6, Exhibit 186, ACLU.



In consideration along with Belle Vista was another turnkey site, Shirley-Oswego. Although HUD preferred turnkey projects be acquired in “all white” neighborhoods, regulations allowed for projects in non-white areas if “paired with one in an all white neighborhood.” At first, HABC officials tried to claim that the Shirley-Oswego area was “racially mixed,” but this claim did not hold up to scrutiny by HUD, as the neighborhood was in the midst of racial transition from white to black.<sup>376</sup> With the delay in approval, HABC Chairman Eugene Feinblatt penned a scathing letter to HUD Assistant Secretary Don Hummel decrying what he saw as a “seeming lack of urgency” and “bureaucratic inflexibility and administrative regulation which sometimes defy belief.” Feinblatt declared the agency’s determination against Shirley-Oswego as “totally indefensible under the circumstances” of the dire need for additional public housing in the city. With these added delays, Feinblatt explained, it was becoming increasingly difficult for the Baltimore housing authority to claim “that turnkey is a method for getting public housing built quickly.”<sup>377</sup>

In reply, Hummel wrote that his office was “fully cognizant of the great need for housing” in Baltimore and would do “everything we can to expedite your housing program.”<sup>378</sup> Although Belle Vista was in a “racially mixed neighborhood,” not an all-white one, HUD relaxed their requirements and approved of the pairing of the two areas to satisfy site regulations. HUD’s regional office wrote in September 1967 that, “taken as an entity” with Belle Vista, the Shirley-Oswego site was approved for a 35-unit turnkey project.<sup>379</sup> Belle Vista had been

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<sup>376</sup> By 1970, the neighborhood around the Shirley-Oswego site would become 94% minority. Expert Report of Rolf Pendall, Series 3, Plaintiff Exhibits, Box 1, Exhibit 5, ACLU, Table 1.

<sup>377</sup> Letter Eugene Feinblatt, BURHA Chairman to Don Hummel, HUD Assistant Secretary, 1967, Series 3, Plaintiff Exhibits, Box 6, Exhibit 189, ACLU.

<sup>378</sup> Letter Don Hummel, HUD Assistant Secretary to Eugene Feinblatt, BURHA Chairman, Sept. 20, 1967, Series 3, Plaintiff Exhibits, Box 6, Exhibit 190, ACLU.

<sup>379</sup> Letter Vincent Marino, Assistant Regional Administrator for Housing Assistance, to Richard Steiner, BURHA Executive Director, Sept. 11, 1967, Series 3, Plaintiff Exhibits, Box 6, Exhibit 186, ACLU.

determined as an ideal site for a larger, 103-unit project to house many of the larger families in need, but despite Shirley-Oswego's approval being contingent on the pairing with Belle Vista, the latter site was never actually acquired for housing development. After having bent their regulations to approve Shirley-Oswego, HUD failed to follow through on the very project that would have advanced, even if slightly, a deconcentration of public housing.<sup>380</sup>

Another major innovation in public housing came in 1965, when the Housing and Urban Development Act created the first publicly-administered housing program to use private housing units.<sup>381</sup> The Section 23 program, also known as Leased Housing, authorized local housing authorities to lease units from private owners and sublet the units to public housing-eligible tenants at affordable rents, with the housing authority using federal funds to cover the cost difference. Units leased through the program were required meet minimum condition standards, and were intended to “be dispersed as widely as practicable throughout the community.” HUD also mandated that the neighborhood surrounding the leased housing “be free of characteristics seriously detrimental to family life,” which included the note that “substandard dwellings... should not predominate” without an active plan for neighborhood improvement.<sup>382</sup>

Section 23 Leased Housing programs had to be approved by the local public housing authority. In Baltimore, this required the approval of Mayor Theodore McKeldin and the City Council. While Section 23 guidelines recommended dispersal of leased housing units throughout the city, the mayor and council only approved Baltimore's program for designated “urban renewal areas,” the boundaries of which were generally drawn along racial lines and, by design,

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<sup>380</sup> Memorandum from Edgar Ewing, Map Showing Turn-Key Locations, Dec. 13, 1967, Series 3, Plaintiff Exhibits, Box 6, Exhibit 185, ACLU.

<sup>381</sup> The Section 23 program would be replaced by the Section 8 Existing Housing program in 1974.

<sup>382</sup> “Low-Rent Housing, Leased Housing Handbook.” Department of Housing and Urban Development, November 1969, <https://www.hud.gov/sites/documents/74301C1PIHH.PDF>.

only encompassed those areas already in need of great repair.<sup>383</sup> This decision drew ire from legal scholars, who referred to the actions later as clearly “evidencing...de jure segregation” and “having the natural and foreseeable consequence of causing segregation in public housing in Baltimore.”<sup>384</sup>

Although the Fair Housing Act had not yet been passed, HUD still prohibited public housing authorities from building new subsidized housing units in areas of minority concentration. When the mayor and city council limited leased housing to urban renewal areas, HUD Secretary Robert Weaver and Assistant Secretary Don Hummel both expressed concern that doing so would limit the program to only black areas of the city and thus not meet HUD site selection requirements. In response, Baltimore executive director Steiner attempted a sleight of hand, claiming that because the urban renewal areas in Baltimore totaled roughly 2,750 acres, leased housing would not be limited to all-black neighborhoods. While Steiner was attempting to claim that this large acreage would include some white areas, it ignored the way that urban renewal area boundaries outlined economically depressed, predominantly black neighborhoods. Despite expressing trepidation, Weaver and Hummel accepted Steiner and the HABC’s assurance that the agencies understood and would abide by HUD rules. Secretary Weaver noted that despite his reservations, it was due to the “need for additional housing for large low-income families” that he allowed the Baltimore leased housing program to go through.<sup>385</sup>

Section 23 was seen, in part, as a way to provide public housing authorities with the larger unit sizes needed for large families, as well as a way for housing authorities to obtain new public housing units more quickly than new conventional public housing construction could be

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<sup>383</sup> Resolution No. 4 (Council No. 1349), Baltimore Ordinances 1965-66, 1045.

<sup>384</sup> Weld, 146-147.

<sup>385</sup> Memorandum Robert Weaver to Don Hummel, Baltimore, Maryland – Application for Section 23 Leased Housing, Feb. 15, 1967, Series 3, Plaintiff Exhibits, Box 8, Exhibit 241, ACLU.

completed.<sup>386</sup> Baltimore had a particular need for larger unit sizes; the problem of overcrowded families had plagued Baltimore's housing program from the start and created a backlog of waiting applicants who needed more than three bedrooms for their families. While many of these families would have undoubtedly accepted fewer bedrooms than federal guidelines mandated in order to obtain subsidized housing, the HABC was constrained by HUD limits on how many people could occupy a unit. In its response to an NAACP complaint in the 1960s, the HABC noted the extreme shortage of housing available for larger families, and declared their hope that, "If leased housing could be utilized as a public housing resource, then such large families could be accommodated by the leasing of entire houses."<sup>387</sup> Yet, as can be seen in the chart of proposed unit distribution and the actual leased housing units, one- and two-bedroom units predominated in the program after all:

*Table 6 Baltimore Leased Housing Program*<sup>388</sup>

Number of Bedrooms	Units Proposed	Units Leased
1	50	57
2	35	34
3	40	34
4	50	13
5	45	17
6	30	10
Total:	250	145

<sup>386</sup> "Low-Rent Housing, Leased Housing Handbook" Department of Housing and Urban Development, November 1969, <https://www.hud.gov/sites/documents/74301C1PIHH.PDF>.

<sup>387</sup> Complaint Filed with Department of Housing and Urban Development, McCulloh Homes Extension Public Housing project, Baltimore, Maryland, 1966, Series 3, Plaintiff Exhibits, Box 6, Exhibit 178, ACLU, 5.

<sup>388</sup> Data from Memorandum from Van Story Branch to Sara Hartman, Comments on Proposed Report to Commission – Leased-Used Housing, June 18, 1970, Series 3, Plaintiff Exhibits, Box 8, Exhibit 243, ACLU.

HUD Secretary Weaver approved Baltimore's program due to the need for larger unit sizes, yet it was precisely these larger units that would be cut when quotas were reduced.<sup>389</sup>

Despite HUD's concerns, the agency approved Baltimore's leased housing program. Assistant Secretary Hummel warned in a letter to Baltimore officials that while he accepted their assurances that the limitation of leased housing to urban renewal areas would not violate the Civil Rights Act, he expected them to report "frequently" and be "constantly alert" to conditions that might "perpetuate Negro concentration."<sup>390</sup> As with approval of the "four locations" plan under Baltimore's first come-first served tenant selection policy in the traditional public housing projects, HUD officials lacked meaningful regulatory enforcement powers and thus acquiesced to local alterations in implementation, which undercut the policy.

Hummel's fears soon came to pass. Fewer than three months later, he wrote again to Baltimore officials that they were in violation of HUD regulations and his own specific instructions because of where the leased housing units were located. Of the 75 units leased in June 1968, all were in areas with highly concentrated black populations—80-99 percent. Baltimore's new acting executive director of urban renewal attempted to show compliance by pointing to situations where the leased housing units were situated in a majority-white "individual structure or apartment building," within an otherwise majority-black neighborhood. Hummel summarily dismissed this as unacceptable. In attempting to skirt HUD regulations against minority concentration, the leased housing program was replacing white occupants of these buildings with black public housing residents. This then increased the concentration of

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<sup>389</sup> Memorandum Robert Weaver to Don Hummel, Baltimore, Maryland – Application for Section 23 Leased Housing, Feb. 15, 1967, Series 3, Plaintiff Exhibits, Box 8, Exhibit 241, ACLU.

<sup>390</sup> Letter Don Hummel to Richard Steiner, March 2, 1967, Series 3, Plaintiff Exhibits, Box 8, Exhibit 242, ACLU.

black residents in the neighborhood—exactly the effect that the HUD site selection requirements were meant to prevent.<sup>391</sup>

Although the Baltimore City Council did eventually vote to increase the eligible Section 23 program area, it was too late to save the program. The restriction of leased housing to urban renewal areas, paired with the requirement that any housing leased through the program must meet minimum housing standards, meant that the city was unable to fill its HUD-authorized quotas.<sup>392</sup> Even after those quotas were reduced from 250 to 145 units of leased housing, HUD pressed HABC administrators to proceed “as rapidly as possible” with the program. This pressure led officials to accept properties into the program at a “lower standard” than what was originally proposed, a decision that HABC Van Story Branch would refer to a few years later as “unwise,” and which directly led to the resulting failure of the city’s leased housing program. By 1970, housing officials openly discussed the declining quality of the housing provided, the high turnover of renters, and the limited program funding.<sup>393</sup> The program limped along for a few more years, but by 1976, only one lease of the revised 145 unit quota remained.<sup>394</sup> Branch explained the failure of the program as the result of several external circumstances limiting the effectiveness of the program. First, the mayor and city council’s restriction of the leased housing program area to only those places already designated as urban renewal areas led to difficulty obtaining “standard and satisfactory dwelling units” for use as leased housing.<sup>395</sup> Second, city contracts with landlords did not have a mechanism to increase rents as tax and utility rates

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<sup>391</sup> Letter Don Hummel to Robert Moyer, June 27, 1968, Series 3, Plaintiff Exhibits, Box 8, Exhibit 244, ACLU.

<sup>392</sup> Memorandum Van Story Branch to Gordon B. Leatherwood, Leased Housing Coordinator, Leased Housing Program, July 27, 1966, Series 3, Plaintiff Exhibits, Box 8, Exhibit 239, ACLU.

<sup>393</sup> Memorandum Van Story Branch to Sara Hartman, Comments on Proposed Report to Commission – Leased-Used Housing, June 18, 1970, Series 3, Plaintiff Exhibits, Box 8, Exhibit 243, ACLU.

<sup>394</sup> Memorandum Van Story Branch to Robert Embry, Phase-Out of the Leased Housing Program, April 12, 1976, Series 3, Plaintiff Exhibits, Box 8, Exhibit 243A, ACLU.

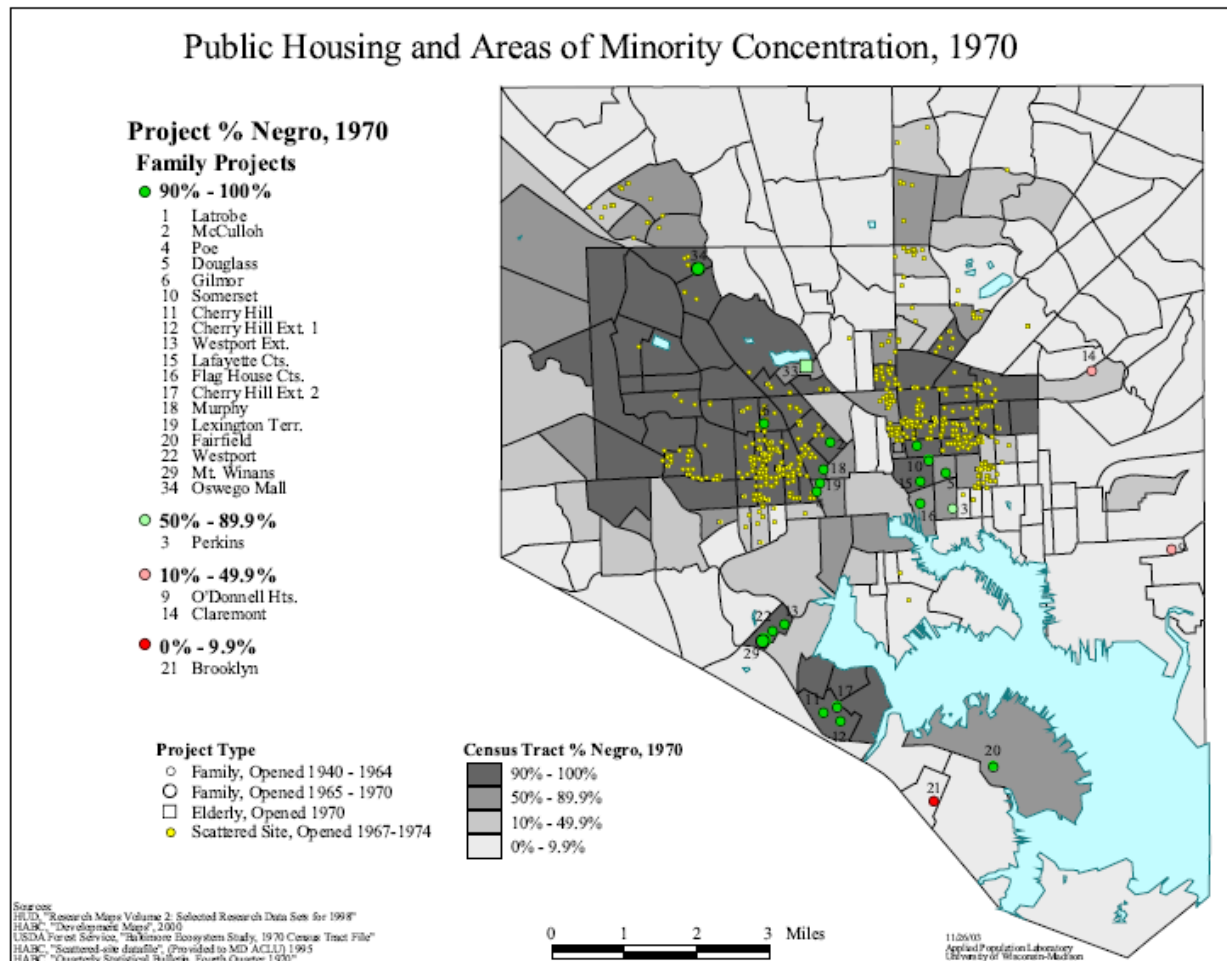
<sup>395</sup> Memorandum Van Story Branch to Sara Hartman, Comments on Proposed Report to Commission – Leased-Used Housing, June 18, 1970, Series 3, Plaintiff Exhibits, Box 8, Exhibit 243, ACLU.

increased, causing some to pull out of the program or refuse necessary repairs. Finally, because of the problems with quality of both the physical dwellings and their locations, those who applied to leased housing did so “with great reluctance or in desperation,” and were not “the more desirable low-income families” the housing authority sought to attract and retain. “More desirable” families were those with middle-class cultural markers, traditional family structure, and low-paying but steady employment. Instead, the leased housing residents “required constant monitoring by the meager management staff” to make sure they were not disturbing the neighborhoods or damaging the leased property through malice or neglect. Although the leased housing program was an attempt to provide a desperately needed expansion of the public housing program, Branch wrote, “At its best, I would say that the program was mediocre.”<sup>396</sup>

The 1960s saw new innovations in public housing through the scattered site, turnkey, and leased housing programs. While the new site selection requirements handed down by HUD failed to effectively deconcentrate new public housing in major cities, they did help pave the way for the requirements that housing authorities “affirmatively further fair housing” in the 1968 Housing Act. In Baltimore, the housing authority generally failed in their aim to develop public housing outside of the same low-income black neighborhoods where projects had traditionally been located; even into the 1970s, low-income projects sat in clusters, while projects for elderly residents were scattered throughout the city.

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<sup>396</sup> Memorandum Van Story Branch to Robert Embry, Phase-Out of the Leased Housing Program, April 12, 1976, Series 3, Plaintiff Exhibits, Box 8, Exhibit 243A, ACLU.



*Figure 6.2 Locations of Baltimore Public Housing Projects, 1970*<sup>397</sup>

Taken together, the effect of white flight to the suburbs of Baltimore County, site selection decisions by the HABC and Baltimore elected officials, the majority black population topping the public housing wait lists, and continued housing discrimination throughout the region meant the city's public housing projects remained essentially segregated into the 1970s. More than a decade after HUD ordered HABC to support and encourage black residents move into the three all-white projects of Claremont, O'Donnell, and Brooklyn, all three remained

<sup>397</sup> Map, Public Housing and Areas of Minority Concentration, 1970, ACLU of Maryland, <https://www.aclu-md.org/en/cases/thompson-v-hud>.



strikingly segregated. While the vast majority of the other housing projects maintained 95-100 percent black occupancy, these three were 71 percent, 77 percent, and 84 percent white. In fact, in 1977, these the projects alone accounted for 78 percent of all the white people remaining on Baltimore's public housing rolls.<sup>398</sup>

*Table 7 Black and White Tenants by Project, June 1977*<sup>399</sup>

Project	Total Tenants	White	Black	Other	% Non-White
Latrobe	701	11	690	0	98.4%
McCulloh	433	0	433	0	100.0%
McCulloh Extension	516	1	515	0	99.8%
Poe Homes	298	0	298	0	100.0%
Douglass Homes	388	0	388	0	100.0%
Perkins	685	63	619	3	90.8%
Gilmor	586	0	586	0	100.0%
O'Donnell	900	689	201	8	23.2%
Somerset Court	420	0	420	0	100.0%
Cherry Hill	600	0	600	0	100.0%
Cherry Hill Extension 1	637	0	637	0	100.0%
Cherry Hill Extension 2	358	0	358	0	100.0%
Claremont	292	207	84	0	28.8%
Lafayette Courts	813	1	812	0	99.9%
Flag House Courts	483	13	469	1	97.3%
Lexington Terrace	674	0	674	0	100.0%
Murphy Homes	756	0	756	0	100.0%
Westport Homes	198	0	198	0	100.0%
Westport Extension	232	0	231	1	100.0%
Fairfield	300	0	300	0	100.0%

<sup>398</sup> Letter from Van Story Branch to Dean Reger, with attached Report on Occupancy, Aug. 23, 1977, Series 3, Plaintiff Exhibits, Box 7, Exhibit 193, ACLU.

<sup>399</sup> Chart from Ibid.

Brooklyn	499	419	73	7	16.0%
Mt. Winans	140	0	140	0	100.0%
Oswego Mall	35	0	35	0	100.0%
Somerset Court Extension	60	0	60	0	100.0%
Rosemont	105	0	105	0	100.0%
DuBeland	30	0	30	0	100.0%
Hollander Ridge	985	238	737	10	75.8%
Used Housing Program	86	0	86	0	100.0%
Vacant Home Program	1,260	37	1,219	4	97.1%

As the city's racial demographics continued to shift to ever-larger black majorities, the inability of the HABC to fix the problem of segregated projects would make its way to the federal court system in the 1990s as the ACLU of Maryland sued HUD and the HABC on behalf of the city's public housing residents. The patterns set through decades of city planning and public housing policy had solidified and would remain into the present day.

## 7 EPILOGUE: MEANINGFUL CHOICE?

The problems of segregation in Baltimore's public housing persisted throughout the remainder of the twentieth century, despite the turn to Section 8 and other Housing Choice voucher programs, culminating in what NAACP Legal Defense Fund President Theodore Shaw called "the most important housing desegregation lawsuit in a generation."<sup>400</sup> In the nearly twenty-year court case of *Carmen Thompson et. al. v United States Department of Housing and Urban Development et. al.* (also known as *Thompson v. HUD*), the Federal District Court grappled with questions of choice, meaningful opportunity, and policy solutions for decades of residential segregation. The case culminated with the creation of a new housing voucher mobility program for the five-county Baltimore region to address the inability of the City of Baltimore to solve the public housing problems within its borders.

In 1995, the City of Baltimore received funds under HUD's HOPE VI plan to finance demolition of the city's public housing high-rises. As plans for the demolition became public, the ACLU of Maryland filed suit against the Housing Authority of Baltimore City, the mayor and city council, HUD, and the current HUD Secretary.<sup>401</sup> The lawsuit included six named current residents of HABC public housing, but achieved class action status on behalf of "all African Americans who have resided or will reside in Baltimore City family public housing units at any time from January 31, 1995 until January 1, 2027."<sup>402</sup> The suit alleged that both Baltimore and

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<sup>400</sup> Press release, Legal Defense Fund Heads to Court to Remedy Housing Discrimination in Baltimore, March 22, 2006, NAACP Legal Defense Fund, <http://www.naacpldf.org/update/legal-defense-fund-heads-court-remedy-housing-discrimination-baltimore>.

<sup>401</sup> The Case of *Thompson v. HUD*: A Briefing on Segregation and Public Housing in Baltimore, ACLU of Maryland, [http://www.aclu-md.org/uploaded\\_files/0000/0155/thompsonbriefing.pdf](http://www.aclu-md.org/uploaded_files/0000/0155/thompsonbriefing.pdf); Memorandum of Decision, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001).

<sup>402</sup> Settlement Agreement, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001), 2.

federal officials were responsible for perpetuating residential segregation through public housing site selection practices well after segregation had been ruled unconstitutional in *Brown v. Board* and the city had officially desegregated its public housing projects. Plaintiffs pointed to many of the practices described throughout this dissertation, including the dubious nature of “freedom of choice” as a program to provide meaningful choices, the subversion of the “first come-first served” plan, and the refusal of Baltimore authorities to abide by (and HUD officials to enforce) site selection policies, as evidence of the responsibility HABC and HUD had for the city’s continued segregation. The need for an immediate response was urgent, plaintiffs alleged, as the HABC and HUD were embarking on “a major program to demolish and replace up to 3,000 housing units,” with “virtually all the sites under development for replacement housing” located in low-income, minority areas with existing concentrations of public housing. “If not halted by this Court,” plaintiffs warned, “the defendants will rebuild segregation for generations of public housing families to come” and “squander a rare opportunity to right a wrong of historic dimension.”<sup>403</sup> The following year, the involved parties signed a partial consent decree requiring that the 3,000 units of public housing be replaced with 1,000 new public housing units in mixed-income neighborhoods on the sites of the demolished housing, and 2,000 units made available through housing vouchers and subsidies.<sup>404</sup>

Following the partial consent decree, the lawsuit continued on for nearly a decade, culminating in a month-long trial in late 2004. Finally, in January 2005, Judge Marvin J. Garbis issued a decision on the liability of the HABC and HUD in perpetuating public housing segregation in the city. First and foremost, Garbis emphasized, “Baltimore City should not be

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<sup>403</sup> Plaintiff Amended Complaint, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001).

<sup>404</sup> Laura Engdahl, “New Homes, New Neighborhoods, New Schools: A Progress Report on the Baltimore Housing Mobility Program,” Report for Poverty & Race Research Action Council, October 2009, 12.

viewed as an island reservation for use as a container for all of the poor.” Due to the rapid demographic changes within the city that left it home to a disproportionately low-income, black population, it had become “impossible to effect a meaningful degree of desegregation of public housing by redistributing the public housing...within the City limits.”<sup>405</sup> Quoting from the 1987 court case *NAACP v. Secretary of HUD*, Garbis wrote that the Fair Housing Act “requires Defendants to do something ‘more than simply refrain from discriminating.’”<sup>406</sup>

While Garbis found that HUD’s “failure adequately to take a regional approach to the desegregation of public housing in the region...violated the Fair Housing Act and requires consideration of appropriate remedial action by the Court,” he failed to issue a similar ruling on the responsibility of the HABC. Instead, subscribing to the liberal rhetoric of choice espoused by the HABC since the 1950s, Garbis described the “prompt desegregative action” by Baltimore officials as acting “rapidly, responsibly, and effectively” after the 1954 *Brown v. Board* ruling.<sup>407</sup> In his decision, Judge Garbis placed the responsibility on HUD for having “failed to take adequate action to disestablish the vestiges of the discrimination they participated in imposing,” and stated they “may have worsened the racially discriminatory situation” by focusing only on “rearranging Baltimore’s public housing residents within the Baltimore City limits.”<sup>408</sup> As the city’s housing agency had no authority to force the surrounding counties to participate in public housing construction or voucher programs, Garbis’ ruling hinged on the ability of HUD to intervene in the region—and their failure to do so.<sup>409</sup>

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<sup>405</sup> Memorandum of Decision, *Thompson v. HUD*, 11.

<sup>406</sup> Memorandum of Decision, *Thompson v. HUD*, 33; *NAACP v Secretary of HUD*, 817 F.2d 149, 155 (1987).

<sup>407</sup> Memorandum of Decision, *Thompson v. HUD*, 5, 104-105.

<sup>408</sup> Memorandum of Decision, *Thompson v. HUD*, 13, 104.

<sup>409</sup> In their analysis of the *Thompson* decision, the Poverty & Race Research Action Council pointed to the testimonies given by former Baltimore mayor Kurt Schmoke and former housing authority director Jim Henson as convincing Garbis city officials “were primarily focused on improving housing conditions for African American residents and their communities, and thus could not be said to be discriminating.” (Poverty & Race Research Action Council, “An Analysis of the *Thompson v. HUD* Decision,” <http://www.prrac.org/pdf/ThompsonAnalysis.pdf>.)

With his decision, Judge Garbis implemented interim updates to the partial consent decree. HUD was to provide funding for 168 subsidized homeownership units, 1,342 tenant-based vouchers, 646 project-based vouchers, and 2,600 “Moving to Work” vouchers.<sup>410</sup> While the Section 8 voucher programs limited to Baltimore City had often resulted in unused vouchers due to an inability of program participants to find eligible housing, this separate category of “*Thompson* vouchers” came with the explicit ability to use them region-wide without permission to transfer between county housing authorities.<sup>411</sup> The vouchers were targeted for use in “Communities of Opportunity”—census tracts with a lower than 10 percent poverty rate, less than 30 percent minority population, and fewer than 5 percent of housing units in public housing or HUD-subsidized housing complexes.<sup>412</sup>

In addition to the financial subsidy HUD provided through the *Thompson* vouchers, recipients were given extensive mobility counseling, financial literacy classes, and credit repair services. As voucher recipients needed to compete in the private housing market, program counselors also worked with landlords to “counter negative biases” about program participants and explain the ongoing support given to tenants. Recipients were also given employment assistance through job training, and transportation assistance including low-cost financing to purchase used vehicles and financial subsidies to attend driving school. Finally, participants were offered post-move counseling to help the transition to their new community and “second-move”

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While the court allowed context related to the history of public housing decisions made since the 1930s, the statute of limitations meant that fault could only be issued for decisions and actions made by local defendants after 1992, and federal defendants after 1989. (Memorandum of Decision, *Thompson v. HUD*, 8-9)

<sup>410</sup> Settlement Agreement, *Thompson v. HUD*, 5.

<sup>411</sup> Ibid.; Testimony by Peter Buscemi, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001), 24, 185.

<sup>412</sup> Engdahl, 2. The “Communities of Opportunity” approach was proposed by John A. Powell in his Remedial Phase Expert Report (“Remedial Phase Expert Report of John A. Powell in *Thompson v. HUD*,” Kirwan Institute, August 19, 2005, [http://www.kirwaninstitute.osu.edu/reports/2005/09\\_2005\\_ThompsonvHUDRemedialReport.pdf](http://www.kirwaninstitute.osu.edu/reports/2005/09_2005_ThompsonvHUDRemedialReport.pdf), accessed July 14, 2018).

counseling in case of future relocation to help “minimize disruptive and unwanted moves out of opportunity neighborhoods due to market barriers.”<sup>413</sup>

With the demolition of high-rise housing in the city, the vast majority of the subsidized housing provided by the HABC came in the form of Section-8 tenant-based vouchers. While many policy officials viewed vouchers as a way to deconcentrate public housing while providing a mechanism for recipients to express choice, plaintiffs to the suit called in experts to argue the use of Section 8 vouchers was just as unlikely to provide meaningful choice as the other desegregation programs. Gerald Webster, a professor of geography at the University of Alabama, testified that while “black voucher holders largely use their vouchers in Baltimore City in census tracts that are largely African American and poor,” white voucher holders “largely use their vouchers in the five surrounding counties” outside of the city, “in tracts that are less proportionately African American and less comparatively poor.”<sup>414</sup>

While Webster spoke of the program’s results, former Acting Assistant HUD Secretary for Policy Development and Research, Xavier de Sousa Briggs, testified that the stated objective of the Section 8 program to desegregate subsidized housing and promote access to desirable, quality locations was the “stepchild on the list” of program goals. “The voucher program is run primarily to minimize costs and to meet basic shelter needs,” he contended. Moreover, due to the “few incentives and resources” provided by HUD to promote desegregation and increase opportunity, the lack of penalties for local agencies who failed to do so, and “several perverse

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<sup>413</sup> Engdahl, 2, 14-21.

<sup>414</sup> Gerald Webster Direct Testimony, Remedy Trial, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001).

incentives,” “not only does [the program] not advance the cause of desegregation, but in some ways the program is run in ways that exacerbate it.”<sup>415</sup>

Jill Khadduri, former Director of the Division of Policy Development at HUD pointed to the need for regional administration of housing vouchers to enable recipients to move outside of the city limits with minimal impediments. All of these problems could be effectively addressed through *Thompson* vouchers. The program quickly showed successes; in the program’s first six years, 1,522 families moved to low-poverty, integrated neighborhoods, nearly 90 percent of which were in the suburban counties.<sup>416</sup> Eighty-five percent of participants reported improved quality of life, feeling “safer, more peaceful, and less stressed,” while experiencing health improvements and gaining access to better schools.<sup>417</sup>

Federal defendants objected to the provisions of the 2005 interim remedy. In a response filed after the trial, defendants referred to continuing residential segregation as “the reality of racial housing preference patterns,” and proclaimed that the goal of racial integration “will be elusive” due to the “interplay of the choices that members of different racial groups make about where to live.” Defendants once again hearkened back to liberal views of choice, claiming that Section 8 vouchers provided “remarkable” opportunity to exercise free choice, building off the “ingrained American value of freedom to choose where to live”—a choice, they claimed, “would be denied by plaintiffs’ proposed remedy.” In this classical liberal view, the requirements that *Thompson* vouchers be used in Communities of Opportunity were in fact restrictions on freedom of choice, an expression of “sheer paternalism” on the part of attorneys and lawmakers.<sup>418</sup>

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<sup>415</sup> Xavier de Sousa Briggs Direct Testimony, Remedy Trial, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001).

<sup>416</sup> Engdahl, 3.

<sup>417</sup> Engdahl, 27-29.

<sup>418</sup> Defendant Post Trial Brief, Remedy Trial, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001).



Due in part to continued disagreements over proposed remedies for the fault found in 2005, it was not until 2012 that the plaintiffs and HUD were able to come to a final settlement agreement. By that time, Shaun Donovan had been appointed HUD Secretary and changed the department's course. Unlike the defendant briefing in 2005, Donovan understood the limitations of traditional voucher programs and continued concentration of poverty and lack of mobility of vouchers across housing authority jurisdictions. Moreover, Donovan said in a 2012 speech:

When you don't have mobility, you don't have access to opportunity. That's because when you choose a home, you choose so much more than a home. You also choose access to jobs, to schools for your children, to public safety. You choose a community—and the choices available in that community.

Donovan thus embraced *Thompson* as “not only justice for families who were wronged—but also a testing ground for mobilities policies and lessons” for communities nation-wide.<sup>419</sup> In the final settlement agreement, HUD agreed to maintain the *Thompson* voucher program; create a Regional Administrator for the vouchers; create an online listing of subsidized housing opportunities in the region; fund a study on the patterns of public housing and vouchers in the region to identify impediments to accessing housing units outside of Baltimore City and examine the “locational patterns” of quality-of-life opportunity in the region; and undertake civil rights reviews of any “significant decisions” made by public housing authorities in the Baltimore region including agency plans, demolition applications, and site proposals for new or rehabilitated subsidized housing.<sup>420</sup>

In addition to statements of support by *Thompson* voucher recipients, Greater Baltimore Urban League President J. Howard Henderson, Citizens Planning and Housing Association Executive Director Mel Freeman, U.S. Congressman Elijah Cummings, and former HABC

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<sup>419</sup> Prepared Remarks of Secretary Shaun Donovan at the Fifth National Conference on Housing Mobility, Urban Institute, June 12, 2012, <https://archives.hud.gov/remarks/donovan/speeches/2012-06-12.cfm>.

<sup>420</sup> Settlement Agreement, 8-29.

Commissioner Robert Embry issued a declaration praising the settlement plan. Embry stated that he “wholeheartedly support[ed] the settlement in this case,” as he felt “Baltimore can move forward only by taking a regional approach to housing opportunity.”<sup>421</sup> As former HUD Secretary George Romney had stated during the *Gautreaux* hearings more than 30 years prior, “The impact of the concentration of the poor and minorities in the central city extends beyond the city boundaries to include the surrounding community. The city and suburbs together make up what I call the ‘real city.’ To solve the problems of the ‘real city,’ only metropolitan-wide solutions will do.”<sup>422</sup>

Despite the initial successes of the *Thompson* voucher project, the dire need for affordable housing in Baltimore has proven beyond the scope of the program’s ability to remedy. In March 2017, the Baltimore Regional Housing Partnership, which administers the vouchers, decided to stop accepting new applications after the waitlist grew to more than 12,000 applicants, despite the program only having 1,000 remaining to distribute. The Housing Authority of Baltimore City had closed its waitlist for the traditional Housing Choice Vouchers two years

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<sup>421</sup> Press Release, Settlement Continues Successful Fair Housing Program, ACLU of Maryland, Nov. 20, 2012, [http://www.aclu-md.org/press\\_room/88](http://www.aclu-md.org/press_room/88); Sabrina Oliver comment, filed Nov. 2, 2012, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001); Nicole Smith comment, filed Nov. 2, 2012, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001); Michelle Green comment, filed Nov. 2, 2012, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001); Press Release, Baltimore Regional Housing Coalition Applauds Fair Housing Settlement that Continues Successful Mobility Program, Baltimore Regional Housing Campaign, Aug. 24, 2012, [http://www.aclu-md.org/uploaded\\_files/0000/0336/pr\\_-\\_brhc\\_statement\\_-\\_thompson\\_settlement\\_final.pdf](http://www.aclu-md.org/uploaded_files/0000/0336/pr_-_brhc_statement_-_thompson_settlement_final.pdf); Congressman Elijah Cummings declaration, Nov. 15, 2012, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001); Robert Embry declaration, Nov. 14, 2012, *Thompson et. al. v. United States Dept. of Housing and Urban Development et. al.*, 199 F.R.D. 168, (2001).

<sup>422</sup> Florence Roisman, “A Place to Call Home? Affordable Housing Issues in America,” *Wake Forest Law Review* 42 no. 2 (2007), 387.

According to legal scholar John B. Weld, HUD’s ability to work in metropolitan remedy itself through administration of a regional voucher system does not diminish the authority of local governments and thus does not run afoul of *Milliken v. Bradley*. (John B. Weld, “Notes and Comments: Remedying Segregated Public Housing in Metropolitan Baltimore,” *University of Baltimore Law Review* 6 no. 1 (Fall 1976), 152.

earlier, when 75,000 people signed up for a lottery to join the 25,000-name waitlist, from which 1,000 to 1,500 vouchers are distributed each year.<sup>423</sup>

As the affordable housing crisis expands, the neoliberal, market-based solution will become even more inadequate for addressing these problems. Even if housing vouchers were funded at a level that would have an effect on the growing backlog of applicants, they are predicated upon the idea that they enable “free choice” in a “free market.” Unless and until the federal government mandates source of income protections for voucher recipients, forbidding landlords from discriminating against tenants whose rents are subsidized through housing vouchers, the assumption that recipients are making free choices unconstrained by the structural inequality and systemic prejudices of those who own and manage property is false to its core. That our society refuses to accept this reality—because it is too uncomfortable, or too complicated, or just goes against our foundational ideology of the freedoms we have available to us—will continue to prevent meaningful change.

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<sup>423</sup> Yvonne Wenger, “Housing program used to break up high-poverty areas in Baltimore to stop taking applicants,” *Baltimore Sun*, Jan. 12, 2017.

## 8 CONCLUSION

The story of public housing is not solely one of tragedy and loss, blight and apathy. At its beginning, many housing reformers thought they were doing the right thing—eliminating the slums where they themselves could not imagine living, and replacing them with more modest versions of middle-class homes for the deserving poor in need of temporary uplift. As the history of public housing repeatedly shows, however, intent does not always translate to impact. From its legally segregated beginnings to its effectively segregated ends, policy decisions made in Baltimore’s public housing projects have repeatedly failed to address—and have in many ways, exacerbated—the city’s issues of urban poverty and wide-scale disinvestment.

As this dissertation has shown, a policy emphasis on individual “freedom of choice” does nothing to address the problems and results of systemic racism. Whether in the HABC’s “free choice” desegregation policy of 1954 or the “first come-first served” policy of 1966, the liberal emphasis on individual decision-making ignored the ways that communities, environments, and political systems all affected the availability of options, the ability to choose between them, and the potentially devastating consequences of structural limitations. Given long enough, this emphasis shifted the responsibility for segregation from systemic inequality to individual “preferences.” Expecting black tenants to move into all-white projects with no institutional support not only fundamentally misunderstood the depths of systemic racism, but dangerously underestimated the bounds of white racism. As the protests and backlash against the HABC-supported integration efforts that did occur in the 1960s shows, black tenants moving into white projects would risk not merely dislike from their new neighbors, but Klan violence and death threats. To ask black residents to face this alone was morally indefensible.

Officials had understandable reasons for their desire to maintain some all-white projects in the 1950s and 1960s. The way that public housing was funded, relying on tenant rents to pay for maintenance and operation costs made it necessary for the housing authority to capture as much rent as possible. The economics of race, then and now, meant that poor whites as a group were still better off economically than poor blacks. Still, playing in to white racism—whether by holding aside space in all-white projects or acquiescing to white complaints about the impact of black neighbors on their property values—should never be the solution. As the history of Baltimore public housing shows, pandering to white racism is at best a temporary fix. By the late 1970s, the out-migration of white residents fleeing to the suburbs and in-migration of black residents being pushed out of the suburbs resulted in a majority-black, majority-poor city.

The interplay between Baltimore City and Baltimore County, though not the focus of this dissertation, reminds us that while local politics are important to local policy, so too are regional and federal politics. The federal government had numerous opportunities to intervene in the region, including when Baltimore County withdrew an application for a water/sewer master planning grant upon finding out the grant would require a low-income housing program.<sup>424</sup> The Supreme Court ruling in *Milliken v. Bradley* determined in 1974 that “Without inter-district violation and inter-district effect, there is no constitutional wrong calling for an inter-district remedy.” Even so, the repeated refusal of Baltimore County to cooperate with the HABC’s requests to build and operate low-income housing projects outside of the city boundaries constituted just such an inter-district effect.<sup>425</sup> As Judge Garbis rightly noted in his *Thompson v. HUD* decision, Baltimore City housing officials had no authority to force Baltimore County to

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<sup>424</sup> John B. Weld, “Notes and Comments: Remedying Segregated Public Housing in Metropolitan Baltimore,” *University of Baltimore Law Review* 6 no. 1 (Fall 1976), 142.

<sup>425</sup> *Milliken, Governor of Michigan, et al. v. Bradley, et al.*, 418 U.S. 717 (1974); Weld, 153.

let in public housing; but that does not mean that Baltimore City officials are absolved of responsibility. From the moment that the city began constructing public housing, officials made conscious decisions to place the projects in low-income black neighborhoods. These choices left the segregation and poverty of such neighborhoods even more deeply entrenched, and spurred further disinvestment in nearby areas. Rather than alleviate slums, Baltimore's public housing projects exacerbated them. Decisions made by local and federal officials created this situation, and it is the responsibility of local and federal officials to address the reverberating problems that remain even today.

### **Limitations of the Project**

This project relies on close readings of written archival documents, a method that does carry with it significant limitations as to the conclusions that can be drawn. Throughout my dissertation, I have attempted to focus on policy decisions and the motives that can be easily read through the records. Those motives I have ascribed to historical actors came only after careful consideration of the documents available, the conversations recorded in their pages, and the patterns evident over time. Even so, I do not wish to make any claims of being able to reach into the minds of policymakers to cast aspersions on their characters. While some in these pages were willing to make their racism clear, for others, we can only see the racist *effects* their actions (or lack of actions) have caused. We should also stop short of ascribing pure motives of altruism for those who did attempt to change the systems of poverty and public housing in Baltimore.

Even with these limitations, the memos and meeting minutes, letters and newspaper editorials have a story to tell. By focusing on the rhetorical hinge of "choice" and the myriad ways such a concept was used through decades of subsidized housing policy, we can put these

documents into conversation with one another. Still, were I able to pour many more years and thousands more dollars of research funding into this dissertation, I would track down those housing officials who still remain and ask them about their thoughts and motivations. I would also speak to public housing residents, past and present, and ask the question of how much agency *they* feel they have in making decisions about where to live. Alas, both of those resources are in short supply.

If I somehow had the ability to start this project again, knowing what I know now, it would have also taken a much different direction. I began this project as a public historian, envisioning an investigation into place-making and community-building in public housing. Along the way, I became a historian of policy and city planning, discovering the depths of policy decisions and the ways that city planners and developers have shaped our lives without most of us even noticing. I end it having completed a transition out of academia, becoming a practitioner of city planning and policy myself. Where I had previously written about the conflicts between civil servants and elected officials, I have now experienced first-hand the very real challenges that civil servants face in making community-centered policy in a capitalist society where the decisions of elected officials are far too often predicated upon the calculus of gathering future votes. Finally, though the decision to cut my timeframe off just before the wide-scale change to Section 8 vouchers was a purposeful one at the time I made it, as I now venture into the affordable housing policy world, I am faced with a future working in public policy for exactly that voucher system. While I do not regret any of the choices I made along the way, my movement from the theoretical realm to that of practice would have resulted in a wholly different project.

The policy ideal of “individual choice” is one we still grapple with today. From health insurance to schools, the rhetoric of choice becomes a shield beyond which it is difficult to pierce. As opponents to the *Thompson v. HUD* remedy argued, what right do housing officials have to insist that voucher recipients move to “Communities of Opportunity” to receive assistance? These are the same arguments we hear when people ask what right does the federal government have to insist that all citizens purchase health insurance, or that said insurance policies cover contraception? While there are policy nuances that need to be considered and discussed, the emphasis on individual choice precludes our ability to have these nuanced conversations. As our society becomes ever more deeply entrenched in staggering inequality, we must find ways to confront systemic problems without falling back on the excuses of individual decision making and responsibility. American liberalism has proven largely unable to deal with structural inequality because our resistance to asking the right questions means we cannot begin to contemplate the right answers. We have a lot to learn from these twentieth-century attempts to reckon with inequality, however well-intentioned or misguided or inadequate they might have been. The world our kids are going to grow up in is ever-more warped by our inability to acknowledge these shortcomings.



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